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A crisis involving conflict between local, State, and Federal powers on the decision of desegregation resulted in closure of public schools, harassment of citizens, unchecked violence, unjust treatment of citizens, and general disorder of the community.

Recommendations of this board to avoid situations as encountered in New Orleans include: a clarification of civil rights statutes; protection of school board capacity to act; protection of innocent parties; possible legislative action on court decisions; and careful study of administrative decision on desegregation.

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the New Orleans

SCHOOL CRISIS

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Bennett O. Stalvey

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THE NEW ORLEANS SCHOOL CRISIS

Report of

the Louisiana State Advisory Committee
to the United States Commission on Civil Rights

> The magnitude of the problem may not nullify the principle. And that principle is that we are, all of us, freeborn Americans, with a right to make our way, unfettered by sanctions imposed by man because of the work of God.
>
> Federal Judge J. Skelly Wright.

Office of Education-EEOP
Research and Materials Branch

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Office of Education-EEOP
Research and Materials Branch

This report was prepared by the subcommittee on education of the Louisiana State Advisory Committee to the Commission on Civil Rights and adopted by the State Advisory Committee as its report on education.

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Preface

This study of the New Orleans school crisis was submitted to the Commission on Civil Rights as part of the 1961 report of its Louisiana Advisory Committee.

The Louisiana Committee is one of the 50 State advisory committees that were established by the Commission pursuant to Section 105(c) of the Civil Rights Act of 1957. Its membership consists of interested citizens of standing, who serve without compensation. Among the functions and responsibilities of the State advisory committees, as set forth in their bylaws, are the following: (1) to advise the Commission of all information concerning legal devolpments constituting a denial of equal protection of the laws under the Constitution; and (2) to advise the Commission upon matters of mutual concern in the preparation of its final report. The Commission, in turn, has been charged by the Congress to investigate allegations, made in writing and under oath, that citizens are being deprived of the right to vote by reason of color, race, religion, or national origin, to study and collect information regarding legal developments constituting a denial of equal protection of the laws, and to appraise Federal laws and policies with respect to equal protection.

Having these statutory requirements in mind, the Louisiana Advisory Committee considered it its duty to submit a detailed report of the New Orleans school crisis to the Commission. Consequently, the duly constituted subcommittee on education was charged with compiling such a study.

The subcommittee decided to start its report with a general chronology of events, followed by a number of chapters discussing various specific aspects of these events. It is in the nature of this format that a certain amount of repetition is inevitable. An attempt has been made to reduce reiteration to a minimum.

The study, as it appears here, is the work of the subcommittee on education. It was approved by the full Louisiana Committee and forwarded to the Commission as one of the three sections of that Committee's 1961 report. The Commission drew upon this report, as upon the other 49 reports, in the preparation of its report to the President and Congress. The Commission does not, however, either adopt or use

1. Chronology of Events

January to April 1960

The battle raging in Louisiana over school desegregation cannot be fully understood without a brief description of the political situation in Louisiana in late 1959 and early 1960. During that time, two men waged a bitter contest for the governorship of the State. They were de Lesseps S. Morrison, mayor of New Orleans, and former governor Jimmie H. Davis.

In the first Democratic primary, both Morrison and Davis faced a strong segregationist opponent in the person of state senator William Rainach from Claiborne Parish. Thus, while Davis and Morrison ran as segregationists, they played down the racial issues, since Rainach held title to it in the minds of the voters.

Morrison won the first primary but failed to secure enough votes to render a second primary unnecessary. Davis was runner-up. Davis sounded the keynote for his second primary campaign when he said, 24 hours after the first primary election, "I do not want any NAACP votes. There has been one sinister and disturbing element injected into this campaign which is clearly apparent after an analysis of the precincts in this State dominated by minority elements—there are forces at work which will undermine, by tactics fair or foul, the right of an overwhelming majority of our citizens." Clearly, the minority elements Davis referred to were Negro voters, although Morrison later claimed that he also meant Catholics and Jews.

Davis was backed by businessmen, the AFL–CIO, and most of the State's newspapers, all of whom regarded him as unlikely to take any action harmful to their interests. Morrison, on the other hand, had in his favor his excellent record as mayor of New Orleans. His fault, in the eyes of the power structure, was that he was likely to upset the State's economy by doing too much.

Morrison and Davis entered into a heated contest for segregationist support, as embodied by William Rainach and Leander Perez, of Plaquemines Parish. Davis won Perez's support because Perez felt that Davis could win. He also won the support of Rainach.

Perez and Rainach campaigned vigorously for their candidate.

any of these reports *in toto*. Rather, it regards them as invaluable background papers.

The Louisiana education report, however, is a study of such depth, scope, and quality that only separate and complete publication could do justice to it. The Commission is certain that this study will be of interest to all Americans—whether they are educators, administrators, officials, or just concerned citizens—who are anxious to guard our Nation, our States, and our cities against the devastating effects of crises such as the one that is described and analyzed in the pages that follow.

In publishing this report, the Commission wishes to express its profound appreciation to the members of the subcommittee on education of the Louisiana Advisory Committee for their untiring efforts and their selfless dedication to the ideals that America has symbolized for 185 years.

Introduction

The school crisis in New Orleans was one of the most significant events of 1960, not only for the United States but for the entire world. Race relations is the most momentous domestic problem in our country. With the rising nationalism and ethnocentrism of the emerging countries of Africa and Asia, the problem of race relations (aside from war and peace) is probably the most consequential social issue facing the planet.

Strains and stresses in white-Negro relations in the United States have come to a sharp focus in the conflict over desegregating the Nation's public schools. The conflict is not restricted to the South, but it is there that the polarization of opposing forces is most acute and most intense. In the fall of 1960, the conflict assumed explosive proportions in New Orleans. Fortunately, the majority of citizens—of Southern citizens too—are law-abiding, and the explosion was limited.

Yet, the conflict smoulders and the final solution is not clear. We hope that wise and cool minds will prevail over the "Hotspurs" of Louisiana, for the whole world now looks to us, judging our conduct as it affects history and world relations.

In the interest of preserving and strengthening the civil rights of all our countrymen, white or Negro, we would like to tell the story of the New Orleans school crisis, as we see it. To those who object to our views, please remember the words of Alfred North Whitehead: "If it is an uninterpreted fact that you seek, go ask a stone to tell you its autobiography."

Morrison, on the other hand, had these handicaps: (1) his Roman Catholic faith—anathema in north Louisiana; (2) his reputation for "softness" on the racial issue; (3) the desegregation of several city facilities during his terms of office; (4) his identification with New Orleans, an eternally suspect municipality in the eyes of north Louisiana.

Former governor James A. Noe campaigned for Morrison and publicly rebuked Rainach for whipping the populace into a fearful frenzy on the racial issue, but the combination of Davis, Perez, and Rainach was unbeatable. In the second primary, on January 9, Morrison was beaten by Davis, who picked up sixteen parishes which had voted for Rainach in December.

Meanwhile, Emile Wagner, Jr., a member of the Orleans Parish School Board and an extreme segregationist, took an active part in the campaign. He continually told the public that he had a firm commitment from Davis, that Davis would enjoin the school board from carrying out the pending desegregation order. Because of this political activity, Wagner was asked by his fellow board members to resign (the Orleans Parish School Board is traditionally and legally nonpartisan). Wagner refused.

Lloyd Rittiner, president of the school board, issued a statement in which he announced his preference for desegregated rather than closed schools. He said, in part, "I am a segregationist—if, however, I am faced with a choice of integrating or closing, I am already on record as favoring integration to the extent that it is necessary to comply with the law—I think it [closing] would be a mistake. If you have an integrated school system, the people would have a choice; but, if the schools were closed, there would be no choice. I don't think most of the people could afford the private schools, and I don't know what other solution there is." Mr. Rittiner was the first public official to take this stand.

In March of 1960, Dr George Iggers, of Dillard University, issued a statement which said, in essence, "In 1959, white public school capacity utilization was 73 percent, as opposed to Negro public schools, where it was 114 percent. A total of 1,687 Negro children were on the platoon system, whereas no white children attended schools which employed platooning." These facts were later confirmed by Emile Wagner.

The Orleans Parish School Board, under orders to submit a desegregation plan to Judge J. Skelly Wright by May 16, 1960, studied the State laws to determine whether it was free to submit such a plan. It concluded that it was not.

In April, the Orleans Parish Court of Appeals ruled that the legislature, not the school board, had the right to reclassify schools classified by race. This ruling was based on Legislative Act 319 of 1956, in which the legislature reserved this right of reclassification. Attorney General Jack P. F. Gremillion asserted that the school board was powerless to obey Judge Wright's order.

In Baton Rouge, however (a city which has been ordered to desegregate "with all deliberate speed"), District Attorney St. Clair Favrot took a different view. He held that the U.S. Supreme Court had endowed local school boards with the power to declassify schools. Favrot said, "The law with regard to pupil placement is constitutional and the plaintiff must show where it is unconstitutional." Louisiana's pupil placement law gives local boards the right to make pupil assignments in accordance with 17 requirements which must be met by students seeking to transfer from Negro to white schools and vice versa.

In the general election of April 19, 1960, Jimmie Davis, running against Republican Francis Grevemberg and States' Righter Kent Courtney, won handily.

May 1960

Governor Jimmie Davis, in his inaugural address, promised to maintain separate but equal facilities, praised his own conduct toward the Negro, and deplored "outside interference" with the State's affairs. He also pledged himself to a program of the strictest economy.

The school board polled all parents of public school children; preference was indicated by a check mark opposite one of two statements:

1. I would like to see the schools closed rather than integrated, even in small amounts.

2. I would like to see the schools kept open, even though a small amount of integration is necessary.

The results of the poll were not immediately released. Emile Wagner opposed the poll, saying that the results would not really reflect the views of those property owners who pay for the school system and do not send their children to public schools. Some public school employees also took issue with the poll, since they had no voice in it and since the results might jeopardize their jobs.

A delegation of Negro parents petitioned the school board to admit qualified Negroes to the Benjamin Franklin School for gifted children. The board refused but hinted that consideration was being given to the establishment of a similar school for Negroes.

On May 16, Judge Skelly Wright, having received no desegregation plan from the school board, submitted a plan of his own, a grade-a-year integration proposal. This was the text of the Judge's order:

> "It appearing that on February 15th, 1959, the defendant herein was ordered to desegregate the public schools with all deliberate speed: it appearing further that on July 15, 1959, the defendant herein was ordered to file a plan of desegregation by March 1st, 1960; it appearing further that on October 9th, 1959, the time for filing the plan was extended to May 16th, 1960; it appearing fur-

ther that, on this date, May 16th, 1960, the defendant has failed to file a plan,

"It is ordered that, beginning with the opening of school in September 1960, all public schools shall be desegregated in accordance with the following plan:

"A. All children entering the first grade may attend either the formerly all-white public school nearest their homes or formerly all-Negro public school nearest their homes, at their option.

"B. Children may be transferred from one school to another provided such transfers are not based on consideration of race."

Thus, the Orleans Parish School Board was caught between Federal desegregation orders and State laws forbidding desegregation. The board met with Governor Davis and Attorney General Gremillion to map strategy; it also released the results of the parents' poll. A slim majority of parents favored open schools—12,229 white parents voted for closure, 2,707 for desegregation; 11,407 Negro parents voted for desegregation, 679 for closure. The board president, Lloyd Rittiner announced that at present, the board would consider only the wishes of the white parents.

Meanwhile, a citizens' group for open schools, Save Our Schools, Inc., made a public announcement of its existence in New Orleans. Actually, "S.O.S." had been organizing for about 6 months but postponed its public announcement until a vital school bond election was over. In its first statement, S.O.S. said, in part:

> "The closing of public schools inevitably means an increase in juvenile delinquency, as thousands of youngsters are left to their own devices. It means loss of accreditation, loss of Federal tax funds, and the shifting of additional tax burdens to all the citizens of Louisiana. It means the sacrifice of the health-protecting services available to public school children, such as physical examination, immunization, and the school lunch program. It means economic stagnation, because new industries refuse to move into an area in which the public schools have been closed."

The group took no position on the merits of desegregation as opposed to segregation.

The Citizens Council of Greater New Orleans asked Federal and State authorities to investigate the financial backing of S.O.S. The proposed investigation was never made.

The Governor and the legislature, during the month of May, passed a number of anti-integration laws, including a bill authorizing the Governor to close all public schools in the State "to maintain peace and order." A thirteen-member State Sovereignty Commission was created, with broad powers of investigation and subpena. No limitation was placed upon the subject matter of the commission's investigations.

June 1960

On June 26, 1960, the U.S. Fifth District Court of Appeals refused a request by the Orleans Parish School Board that it be granted a stay of the desegregation order.

The Orleans Parish School Board, by a vote of four to one, asked Governor Davis to interpose his authority between the Federal courts and the citizens of Louisiana "to keep the public schools open and segregated." Board member Matthew Sutherland announced that, if interposition should fail, the schools would either have to desegregate or be closed. The only dissenting vote on this resolution to request gubernatorial interposition was cast by Emile Wagner, who had often mentioned interposition as a legal remedy in the school crisis. He labeled interposition as "the harshest remedy that could ever be called into play." The Governor, while he avoided answering the board's request directly, called interposition "the last thing before secession" and hinted that the State was readying further legal moves in the desegregation crisis. Lloyd Rittiner, president of the board, stated his belief that the schools would not open in September but that they would eventually re-open on a desegregated basis.

Several groups of citizens spoke out in favor of open schools, among them: Bishop Girault Jones and 25 Episcopal clergymen; the Committee for Public Education, a citizens' group with objectives similar to those of Save Our Schools, Inc.; 16 members of the United Church of Christ ministerium; the Presbytery of New Orleans, and the Southeastern Louisianan Chapter of the National Association of Social Workers.

The South Louisiana Citizens' Council, on the other hand, recommended the sale of public school properties to avoid desegregation.

Save Our Schools, Inc., began an intensive program designed to educate the public to the pitfalls and dangers of school closure. Through public meetings, press releases, and newsletters, it disseminated information about the school crisis and the legal facts involved that were not being mentioned by the local newspapers.

July 1960

In July, the Orleans Parish School Board ordered its superintendent, Dr. James Redmond, to draw up plans for the following alternatives:

(1) desegregation of the schools, on a grade-a-year basis; (2) a program of continued segregation; (3) a program for closing the New Orleans public schools.

Governor Davis met with the Orleans Parish School Board, but nothing constructive was accomplished by the meeting. He persisted in his refusal to invoke interposition.

Lloyd Rittiner said, in a public statement, "There is absolutely nothing the Governor or the Attorney General (of the State) can do to maintain a segregated school system in Louisiana. This may sound to some people like a defeatist attitude, but it is one thing *to fight* as far as humanly possible and still be able to recognize when you've reached the end of the road, and it is another thing to continue to fight without recognizing you have reached the end of the road and be destroyed. I do not want the public school system of Louisiana to be destroyed."

On July 11, Attorney General Gremillion appealed to Justice Hugo Black for a stay of Judge Wright's desegregation order. On July 19, Justice Black refused to grant the stay.

The New Orleans District of the Methodist Church issued a resolution signed by thirty ministers in which school closure was referred to as "unthinkable."

A group of 94 ministers and rabbis issued a similar statement. "We are alarmed to note," they said, "that many political leaders are apparently willing to offer no better solution than the closing of our schools and the destruction of public education in order to maintain what has been inappropriately described as 'our sacred way of life.' "

The Board of the Young Men's Business Club adopted a motion in favor of open schools which was voted down by the membership. (In January 1961, the members reversed this stand.)

Several PTA's declared themselves in favor of open schools. Some others spoke out for closure rather than desegregation.

The Carrollton Education Cooperative, a group incorporated under State law to run a white private school in the event of desegregation, filed its charter of incorporation with the State.

The White Educational Association, a group devoted to assisting parents in their efforts to set up cooperative schools, was incorporated and claimed a membership of two hundred.

On July 25, Attorney General Gremillion filed suit in the State civil court of Judge Oliver Carriere, asking that the school board be restrained from carrying out the desegregation order. On July 26, Judge Carriere refused to grant a temporary injunction against the board. On July 29, he granted a permanent injunction against the board's execution of the desegregation order, basing his ruling on the asserted constitutionality of the State school classification laws.

On July 28, the NAACP asked the Federal District Court to restrain Mr. Gremillion from blocking desegregaiton in Orleans Parish.

The legislature passed into law bills which gave the Governor the power to close all public schools in the State, should one be desegregated; re-enacted the legislative classification law; prohibited the giving of funds and other State fringe benefits to any desegregated school, public or private (this was interpreted as a threat to parochial schools); directed the Governor to close any trade school or special school threatened by riot or disorder; and directed the Governor to close any school in the event of riot or disorder. With the exception of the trade school closing bill, these measures have since been declared unconstitutional by a Federal court.

On August 17, Governor Davis, acting under a State law passed in 1960, seized control of the Orleans Parish Public Schools and appointed Dr. James Redmond as his agent. A few days previous to this, the NAACP filed suit in Federal court, requesting that Attorney General Gremillion be restrained from taking any action to nullify Judge Wright's desegregation order. The Governor was also an object of this suit. On August 16, both Governor Davis and Attorney General Gremillion were made defendants in the desegregation case.

On August 17, 31 white parents filed suit (*Williams et al.* v. *Davis et al.*) in Federal court, asking that Judge Wright's order be annulled, modified, or suspended; or that the State be enjoined from interfering with the Orleans Parish Public Schools, if Judge Wright's order was left in force; and that the State be enjoined from enforcing eighteen segregation laws described as "an evasion scheme designed to nullify school desegregation orders."

The two suits were joined and were heard before a three-judge Federal court on August 26. On August 27, the court issued orders restraining Governor Davis or any other State official from interfering with the operation of the Orleans Parish schools. The court also cleared the way for return of control of the schools to the school board; declared unconstitutional seven State segregation acts relating to school closure; ordered the Orleans Parish School Board to comply with Judge Wright's ruling; and cited Attorney General Gremillion for contempt because of his rude and insolent behavior both in and just outside of court.

Governor Davis had refused to accept service of the Federal court summons, saying, "If they can do everything they are trying to do, this State no longer has its sovereignty. In a case of this kind, segregation is just one of the issues. We will no longer have a United States of America—it will be something else."

The *Williams* case was remarkable, in that it was the first action of its kind to be taken before school closure laws were put into effect.

A small group of public school students, calling themselves the Student Alliance for Education, circulated a petition calling on the Governor to keep the public schools open and journeyed with this petition to Baton Rouge. The Governor refused to see them. Chris Faser, his executive secretary, asked the leader of the group to tell him the name of the Northern association which had paid for the group's expenses. The student informed Mr. Faser that the movement was entirely local in character.

Four members of the Orleans Parish School Board (Riecke, Rittiner, Shephard, and Sutherland) reiterated publicly their belief that the schools could no longer be operated on a segregated basis. The fifth member, Emile Wagner, said that Governor Davis had a golden opportunity to rally the conservatives of the Nation behind him by defying Federal court rulings.

At Baton Rouge, State Superintendent of Education Shelby M. Jackson warned that many Negro teachers would lose their jobs and that many Negro children would lose their educational chances, if desegregation was "forced." This thinly-veiled threat did not daunt the Negro community.

Twenty-four private school cooperatives were chartered in New Orleans, but it was clear that the cooperative movement lacked strength, since New Orleans possesses 118 public schools.

Captain J. B. Swain, Chief-of-Staff for the Eighth Naval District, asked the Federal government to establish schools for the children of naval personnel, should the schools be closed.

The Independent Women's Organization, a group long active in New Orleans politics, passed a resolution urging the Governor to keep schools open, as did the United Clubs, Inc., the Louisiana Teamsters' Union, the Packinghouse Workers, the Central Labor Council, and the Junior Chamber of Commerce.

The public information campaign of Save Our Schools, Inc., nettled the White Citizens Council, which charged that S.O.S. was Communist-influenced. This charge was successfully refuted.

On August 25, the Times-Picayune and the States-Item editorially set forth the school dilemma facing New Orleans, breaking a period of total silence on the issue.

On August 30, the Orleans Parish School Board asked for a stay in the desegregation order. On August 31, the stay was granted and the date of desegregation was moved to November 14, 1960.

September 1960

On September 1, the U.S. Supreme Court affirmed the desegregation ruling of the three-judge Federal court.

Four members of the Orleans Parish School Board campaigned actively for open schools. The fifth, Emile Wagner, insisted that the schools must not and would not be desegregated.

White enrollment in the schools dropped by 3,000. This was blamed on the unsettled future of the schools rather than imminent desegregation, although the largest drop was registered in elementary schools—the first to be affected by the desegregation order.

On August 31, Judge Wright had granted the Orleans Parish School Board a delay in the implementation of his desegregation order, changing the date from September 8 to November 14. The school board immediately ordered Dr. Redmond to prepare a plan for combined grade-a-year, pupil assignment transfers. Emile Wagner announced that children wishing to transfer would be allowed to submit transfer applications after October 3. The 17 provisions of Louisiana's pupil-placement act were applied to these children. There were 136 applications in all.

The breach between Mr. Wagner and his four fellow members of the board widened. Wagner advocated the running of the schools by the legislature or the abolition of public schools and the substitution of a private system.

The school board denied the use of school buildings to parent groups seeking to set up cooperatives, after Wagner addressed several of these meetings and spoke in favor of the States' Rights candidates for electors in the Presidential campaign.

The White Citizens Council, at a public meeting on September 12, began circulating a petition calling for the removal of the moderate board members from office.

In politics, rumors of a special legislative session to deal with the school crisis were rife. The Governor, at a news conference, denied any knowledge of a special session, but the rumors persisted.

On September 8, the Orleans Parish schools opened segregated and the community entered a period of relative calm.

October 1960

On October 10, the Orleans Parish School Board officially adopted the pupil placement plan. Out of 136 applicants for transfer to white schools, 5 students, all girls, were found to meet the exacting criteria of the law. Dr. Redmond announced that all public schools' classes were to be segregated by sex. The school board rejected all bids on a $10 million bond sale because the proposed interest rates contained in the bids were too high. This was explained by a spokesman for New York's First National Bank, who said that the desegregation crisis had forced the interest rates up and might force them higher still.

Matthew Sutherland announced his candidacy for the office of school board member at the expiration of his term. It was generally understood that the Sutherland election would provide a test of the true feelings of Orleanians as to open or closed schools. Mr. Sutherland's opponents were: John Singreen, an insurance executive heavily backed by the White Citizens Council; Caryl Vesy, a young lawyer who had the open backing of no faction and the tacit backing of the Regular Democratic Organization; and Mrs. Marie McCoy.

Singreen admitted freely that he favored closed rather than desegregated schools. Vesy avoided this question when it arose but gave the impression that he, too, would favor closure. Mrs. McCoy, questioned on this point, said merely that she was for whatever the people wanted and that she would try to discover what that was, perhaps by means of a referendum. Sutherland campaigned on a program of compliance with Federal orders. He said, "The creation of a caste system of education, providing for the favored few and leaving out those who are unable to afford it, will mean a loss to our country at a time when the educated mind, as the guardian genius of democracy, is essential to our survival."

Sutherland was supported by workers from S.O.S., C.P.E., the I.W.O., and volunteers from the League of Women Voters. He received heavy support from the Negro community. During the closing days of the campaign, he received public support from 100 prominent businessmen, who contributed financially to his candidacy. This marked the first occasion in the school crisis in which businessmen took any public part in the struggle for open schools.

On October 28, Governor Davis called the State legislature into special session, to begin on November 4. The loosely-worded call read as follows:

1. To legislate relative to the school children of the State and relative to an educational system which shall include all public schools and institutions of learning operated by state agencies;
2. To legislate for the protection and preservation of the powers and rights reserved to the State of Louisiana and to the people by the Constitution of the United States and the amendments thereto;
3. To legislate relative to the police power of the State;
4. To legislate relative to a State militia.

It was rumored that some of the acts prepared for introduction at this session dealt with interposition. No member of the Orleans legislative delegation was allowed to study any of the proposed legislation.

The Urban League of Greater New Orleans asked for the establishment of a biracial commission to study the city's racial problems.

The White Educational Association launched a house-to-house fundraising campaign.

The New Orleans Classroom Teachers' Federation passed a resolution "to work to keep New Orleans public schools open." This was the first statement of its kind from any teachers' group.

November 1960

The special session of the Louisiana legislature convened on November 4. The bills introduced by the administration were an appropriation measure; a sweeping interposition measure; seven repeals of laws declared unconstitutional; and five reenactments of repealed laws.

Witnesses for S.O.S., the I.W.O., C.P.E., O.P.E.N. (the open schools group in Baton Rouge), the A.C.L.U., the AFL–CIO, the A.A.U.P., and the Classroom Teachers Federation testified against the bills, as did former State Senator J. D. DeBlieux, chairman of the Louisiana State Advisory Committee to the Commission on Civil Rights.

The bulk of the testimony dealt with the futility of reenacting unconstitutional measures and the threat embodied in the school-closing laws. Witness after witness queried the members of the hearing committees as to the wisdom of passing laws already declared vulnerable in court and as to the reasons for the new school-closing measures (when the administration declared repeatedly that it had no intention of closing the schools). None of these questions was answered satisfactorily. The administrative leaders betrayed repeatedly their lack of familiarity with the legislation they were shepherding and its possible consequences. One senator went so far as to deny that he was reenacting an unconstitutional measure, even though he had just voted to repeal the measure in question because it was unconstitutional. Mrs. Mary Sand, President of S.O.S., testified that the interposition measure was neither durable nor legally valid and that its penalty provisions would place all Federal officers in grave jeopardy, which would, in turn, bring swift Federal intervention to Louisiana.

Nonetheless, all the bills went through both houses, with token opposition from some members of the New Orleans delegation and a few non-Orleanians. A legislative committee was appointed to run the New Orleans public schools. On November 8, all the bills were signed into law by the Governor.

On November 8, Matthew Sutherland defeated his three opponents, keeping his seat on the school board, thus indicating that the voters of New Orleans were willing to accept token desegregation to preserve the public school system.

On November 11, the Times Picayune and the States-Item spoke out in favor of maintaining public education, despite desegregation.

The legislature, which had been in recess, was called back to Baton Rouge by the Governor on November 13—24 hours before desegregation was scheduled to begin. Judge Wright issued orders restraining the legislative school committee and over 700 State and local officials from interfering with the operation of the New Orleans schools. This returned control of the schools to the elected school board.

The legislature responded by addressing the four moderates on the school board out of office (the Louisiana constitution allows this removal procedure "for any reasonable cause" to be used against elected or appointed officials; it must be passed by a two-thirds majority in both houses). It also fired Dr. James Redmond and school board attorney Samuel Rosenberg. The excuses given by the legislature for the removals were that the school board had gone into court and secured restraining orders against the legislative committee, that Dr. Redmond had refused to give the committee the names of the Negro pupils and the schools to which they were assigned.

The legislature had previously seized the funds of the Orleans Parish School Board; it also forbade banks to lend money to the board.

On November 13, the legislature ordered all school parishes to observe a holiday on November 14, proclaimed without cause by Shelby Jackson. The Orleans Parish School Board, acting on advice from Samuel Rosenberg, opened schools as usual—the only parish in the State to do so. The legislature swore in State police as deputy sergeants-at-arms and dispatched them to New Orleans to enforce the closure, but the principals of the city's 118 schools stood firm and no school was closed.

On Monday, November 14, four Negro girls attended first grade classes at two previously all-white schools (the fifth child eligible for transfer was withdrawn). The schools were William Frantz Elementary and McDonogh No. 19. Both schools are in the Ninth Ward, where white parents were ill-prepared for desegregation. The neighborhood is poor. It is served by several housing projects. It was ripe for dissidence. The Negro children were accompanied to school by Federal marshals. The white parents of the neighborhood, with two exceptions, withdrew their children from the schools. Reverend Lloyd Foreman and Mrs. Daisy Gabrielle continued to send their little girls to the Frantz school. The boycott at McDonogh No. 19 was total (it was briefly broken by the children of John Thompson in late January 1961; the Thompsons braved the boycott for three days and then left town).

On November 15, William Rainach, Leander Perez, and others addressed a crowd of over 5,000 at a White Citizens Council meeting in New Orleans. Rainach advocated civil disobedience and a scorched earth policy. Perez said, in part, "Don't wait for your daughters to be raped by these Congolese. Do something about it now." Some witnesses described the meeting as "a gathering straight out of Nazi Germany." The action suggested by the speakers was a march on the school board building, city hall, and Judge Wright's office by protesting citizens.

On November 16, this action was forthcoming. A crowd of teenagers and adults marched on the prescribed buildings, chanting: "Two, four, six, eight, we don't want to integrate." City police, under Superintendent Joseph Giarusso, attempted to control the mob by the use of mounted police and a few firehoses. No whites were injured, but several Negroes were hurt by flying glass as bus windows were shattered by vandals and two Negroes were severely beaten. The mob dispersed before it reached the heart of the business district.

That night Mayor Morrison broadcasted an appeal to all citizens to uphold law and order and to prevent further violence. He convened a meeting of the city's most prominent citizens, who signed a statement supporting law and order.

On November 18, the three-judge court took under advisement the following:

1. A request by the *Williams* petitioners that injunctions be issued to prevent further interference with the New Orleans schools;

2. A request by the school board that desegregation orders be set aside until the local case had been finally decided by the Supreme Court;

3. A request by M. H. Many, the U.S. attorney, for an injunction against State and local officials to prevent them from executing the penalty provisions of the Interposition Act.

The court granted the plea of the *Williams* petitioners and the United States attorney and refused that of the school board. It also held that the measure addressing the Orleans Parish School Board out of office and three related measures constituted attempted evasion of Federal orders and invalidated them.

Now, the legislature abandoned its legislative committee approach and took over control of the New Orleans schools itself. The legislature urged white parents at Frantz and McDonogh No. 19 to continue their boycott of the schools.

Leander Perez offered the dispossessed children a refuge in the public schools of St. Bernard Parish. Many of them accepted. A private cooperative school in St. Bernard was hastily constructed under the direction of Armand Duvio, a plumber who heads the Frantz-McDonogh private cooperative. This school was quickly absorbed into the St. Bernard public school system.

It was estimated by the school board that nearly three hundred white children in the Ninth Ward were receiving no schooling whatever—this is still the case.

A member of the Orleans Parish school staff warned that money was becoming a problem to the school board, since the State had forbidden banks to lend money to the school board and the legislature itself had refused to pay the teachers. It was necessary for the Orleans Parish School Board to borrow money for operating expenses to tide it over the gap created between payment of State tax money and city ad valorem tax money.

This was confirmed on November 22, when Dr. Redmond announced that the teacher payroll could not be met by the school board.

On November 23, the legislature passed a resolution authorizing the payment of the Orleans Parish school employees, with the exception of the administrative staff and the Frantz and McDonogh teachers. An anonymous citizen loaned these teachers money to cover their earned salaries. Dr. Redmond, Mr. Rosenberg, and the administrative staff went unpaid.

On November 25, Emile Wagner, in State civil district court, asked the court to compel Dr. Redmond to reveal the names of the children attending the desegregated schools.

In mid-November, the Whitney National Bank, which had honored payroll checks issued by the elected Orleans Parish School Board, was removed as fiscal agent for the State.

In early December, Judge Alexander Rainold ordered Dr. James Redmond to give the names of the students at the desegregated schools to Emile Wagner. The decision was appealed.

During the last days of November, Reverend Lloyd Foreman and Mrs. James Gabrielle, who had continued to take their children to the Frantz school, were subjected to abuse and physical violence by the mob in front of the school. This, coupled with the fact that several parents in the Frantz school area had appealed to S.O.S. for help in returning their children to school, led to the organization of a volunteer "carlift," run by parents from the uptown section of New Orleans, which transported the children to school in relative safety. The "carlift" began on December 1. The car carrying Yolanda Gabrielle was stoned and manhandled by the mob. Later in the week, it was pursued for two miles by a truck which had tried to ram it. Until Wednesday, December 7, the drivers and the women who escorted the children into the school were subjected to the vilest sort of shouted abuse from the daily-assembled crowds. On December 7, the police guarding the school pushed the crowd behind barricades a full block away from the school.

The crowd then dispersed to roam the streets of the Florida Housing Project, where many of the children live. Their parents were subjected to an organized telephone campaign of threats and abuse. Their houses and other properties were stoned, as was one of the mothers of a child at Frantz. The jobs of the fathers were threatened; four of them lost their jobs. James Gabrielle, ostracized by his fellow-workers, quit his job and took his family to Rhode Island. The volunteer drivers were threatened with death, arson, disfigurement, and other unpleasantnesses in a concerted telephone compaign. The police were unable to prevent these occurrences; and, with the exception of a couple of juveniles alleged to have stoned Mrs. Marion McKinley, no one connected with the demonstrations was arrested, nor was the mob in front of the school dispersed or told to move on.

Mayor Morrison, apparently taking the position that much of the trouble at the school was caused by the presence of a large press corps, asked the press to stay away from the school. He proposed that a pool for coverage be organized. The press replied that the trouble at the school was caused by racists, not journalists, and refused to accede to the mayor's plan.

The white enrollment at Frantz rose to a high of 23 and has since fallen to 7. The parents were, naturally, frightened by the threats leveled at them and at their children. On December 8, a list of all the volunteer drivers, together with a description of their cars and the names and telephone numbers of their owners, was circulated among the mob by the Citizens Council. Since several cars had already been attacked, the job of transporting the children to school was turned over to Federal marshals, who also accompany the Negro child to the school.

The white parents who removed their children from Frantz did so, for the most part, regretfully, promising that they would not be sent to the St. Bernard schools. Most of them were subsequently visited by members of the Citizens Council, who threatened them with dire consequences if they did not send their children to St. Bernard.

Dr. James Redmond issued the following report on the whereabouts of 1,019 white children who had previously attended the two desegregated schools: 49 were in New Orleans public schools; 225 attended the public schools in Arabi (a subdivision of St. Bernard); 132 attended the Arabi Elementary Annex; 141 attended the Carolyn Park School in St. Bernard; 3 were in the Chalmette School in St. Bernard; 100 were in the St. Claude Heights School in St. Bernard; 26 were in undesignated schools; 20 were attending schools in other parishes; 16 were attending schools outside the State; and 286 children evidently attended no school whatever.

On December 12, the U.S. Supreme Court unanimously rejected a Louisiana State plea for a stay of New Orleans desegregation and declared the new legislative acts on segregation to be without merit. The court said, in part:

> "The nub of the decision of the three-judge court is this: the conclusion is clear that interposition is not a constitutional doctrine. If taken seriously, it is an illegal defiance of constitutional authority. The main basis for challenging this ruling is that 'Louisiana has interposed itself in the field of public education over which it has exclusive control.' This objection is without substance, as we held in *Cooper* v. *Aaron,* 358 U.S. 1. The others are likewise without merit. Accordingly, the motions for a stay are denied."

On December 16, the three-judge court took under advisement petitions of the NAACP and the United States for temporary injunctions against enforcement of Act 2 of the second 1960 special session, creating a new school board for Orleans Parish, and a request by the elected school board that four New Orleans banks be enjoined from refusing to honor checks drawn on school board accounts.

At this hearing, Attorney General Gremillion, empowered to act as attorney for the elected school board as a replacement for Samuel Rosenberg, attempted to dismiss Rosenberg. The judges, however, recognized Rosenberg as the proper attorney for the board.

On December 21, the court ordered the banks to honor school board checks; restrained the Governor, the attorney general, the legislature, and other State officials from appointing or abetting the appointment of the school board created by Act 2; restrained the legislature from transferring Orleans school funds from local banks into Legislative Special Account No. 1; restrained the legislature from replacing Rosenberg with Gremillion as school board attorney; cited Lt. Governor Aycock, Speaker of the House Jewell, and State Superintendent of Education Jackson for contempt for their refusal to pay the salaries of the administrative school personnel and the teachers at the desegregated schools.

The contempt citations have been indefinitely continued. An act creating a new school board was vetoed by the Governor, in recognition of the fact that the law had been rendered illegal by the decision of the court. A legislatively appointed school board was later created and enjoined from functioning. The legislature at first refused to issue December salary checks to the teachers and then, belatedly, did so. The administrative personnel and the staffs of the desegregated schools were paid by the school board, after the Federal court ordered the city to release to the board its share of city ad valorem taxes which had been held in escrow.

A professor at Louisiana State University, Waldo McNeir, became the center of a bitter controversy because of letters he had written to State legislators calling the actions of the legislature "a disgrace and a national scandal." Representative Wellborn Jack, of Caddo Parish, said of McNeir, "I'm against communism. He disagrees with everything I stand for; and, therefore, he must be a Communist. I'm for segregation. He must be for integration. I stand for honesty. He must be a crook."

The legislature, by resolution, authorized a full-scale investigation of L.S.U. by the legislature's Un-American Activities Committee. Representative James Pfister, head of the committee, asked for $60,000, needed by his committee in order to make the investigation. The money was first proffered and then withdrawn by the Governor. Professor McNeir resigned his university post, giving "outside threats and inside pressures" as his reasons for quitting.

Three hundred and twenty-nine members of the Tulane University faculty signed a statement saying that the proposed investigation of L.S.U. was unjustified and that the legislature, by withholding teachers' salaries in the desegregated schools, was undermining morale throughout the school system. The professors also endorsed a previous statement made by 105 prominent New Orleans businessmen which called for an end to threats, resistance and demonstrations, the preservation of public education, and a return to the rule of law. This marked the second occasion upon which New Orleans business and professional men spoke out in the school crisis. The signers of the businessmen's statement were subjected to a telephone campaign of threats and harassment.

A similar statement was issued by 196 public school parents of New Orleans. Perhaps because there were not enough telephoners to cover such a large number of people, the parents and the professors were not harassed as the businessmen had been.

The White Citizens Council held another public rally, at which attendance was not high. The program was enlivened by the appearance of children in blackface who cavorted with white children on stage while the chairman of the meeting cried, "Is this what you want for your children?" Speakers at the meeting warned that the public schools might have to close if segregation were to be maintained.

The Louisiana Teachers' Association met and voted to support the Governor and the legislature in the school crisis. It also passed a resolution supporting a new law which, if it is ever enforced, will seriously damage teacher tenure, since it empowers a committee to investigate teachers and recommend their retention or dismissal on the indefinite grounds of "loyalty." After the legislature held up its pay, the New Orleans branch of the L.T.A. voted to ask someone in authority why the teachers were not being paid. It also resolved to hold a succession of walkouts if the pay was not forthcoming.

A citizens' drive for "Dollars for Redmond" was launched and later discontinued at Dr. Redmond's request.

The legislature went into its third special session with the specific purpose of levying an additional one-cent sales tax to finance a tuition grant system. The levy was vigorously opposed by the AFL–CIO, small business groups, various Chambers of Commerce, and a bare majority of the New Orleans legislative delegation. The strategy for combating the tax rise was formulated by former Senator Rainach, union officials, and the New Orleans legislators. Rainach secured the votes of several stauch segregationist legislators from northern Louisiana.

New tax measures must be approved by a two-thirds majority of each legislative house. On its first attempt the administration failed, by a few votes, to secure passage of the tax. Members were told to go home and consult their constituents during a recess.

January 1961

Early in January 1961, the Governor's tax measure was defeated in the senate by a coalition of senators allied with labor, business, and former Senator Rainach.

The four open-schools champions of the Orleans Parish School Board were ousted from the Louisiana School Board Association, leaving observers to wonder at the fate of school boards in parishes under similar Federal orders. Some foresaw a rapid depopulation of the association.

A fourth special session was called. The legislature appointed yet another school board for New Orleans. It was restrained from functioning by Federal orders, as was the superintendent it chose to replace Dr. Redmond.

The personnel of the Orleans Parish schools who had been without any pay for two months were paid by the school board, as the result of an earnest plea from Mayor Morrison to property holders, who paid their taxes early.

The Orleans Parish School Board filed a petition in Federal court seeking to force the State bond and tax board to approve bank loans totalling $12,700,000 needed to run the schools in the interim between the payment of State moneys and the collection of the city property tax.

Administration leaders hinted that a program to abandon public education and create a Statewide system of private schools was being seriously considered.

Many otherwise conservative Louisiana newpapers berated the Governor for his advocacy of additional taxes, in violation of his campaign pledge of no tax increase.

A white child, son of John Thompson, an employee of Walgreen's, briefly attended McDonogh No. 19, but was withdrawn when his parents were forced to leave the city.

Louis G. Riecke replaced Lloyd Rittiner as head of the Orleans Parish School Board. Sixteen hundred citizens attended a dinner honoring school board members Riecke, Rittiner, Shephard, Sutherland, and Superintendent Redmond.

As this chronology is concluded, the basic issues remain unresolved. The first stage, however, appears to be over. Although there may be no further violence or hooliganism, the damage to the City of New Orleans has been done. The next chapters deal with the nature and extent of the damage and seek to find some explanation for the city's failure to avert this unnecessary tragedy.

2. Impact on the Community

Impact on education

At the start of the 1960–61 school year, Dr. James Redmond announced that white enrollment in the public schools had dropped by 3,000 pupils. This was attributed to the unsettled future of the schools; but, since most of the loss was registered in the elementary schools, the targets of Judge Wright's order, it seems likely that many parents simply feared desegregation itself and transferred their children accordingly.

Since November 14, 1960, a total of 712 children have been transferred from Frantz and McDonogh to other public schools. As of the spring of 1961 seven white children still were in attendance at Frantz. Nearly 300 children had not asked for their school records, and presumably were not attending any school.

The impairment by the State of the credit of the Orleans Parish School Board has severely damaged the school system. The system's employees, who never know from month to month whether they will receive their pay, have been demoralized by this uncertainty. Many of them are genuinely confused about the issues at stake. Some think that the problem could be solved by the resignation of the elected board and the installation of the legislatively-appointed board. This is not the case, since any successors to the present board would be bound by the Federal desegregation order; but, apparently, no one in the administrative department of the school system has explained this directly to the system's employees. In fact, school employees, in private conversation, criticize the board and the administration for keeping them in the dark. They complain that they never know what their pay status is until they read the administration's press releases. For too long a time the official policy of the administration was one of: "Don't worry, your pay will be taken care of." Whatever effectiveness this approach had was destroyed when the first teacher payroll was not met on time.

When it became clear that the State had no intention of paying the administrative personnel and the teachers at the desegregated schools, the teachers were loaned money to cover their salaries, with the proviso that the loan should be repaid as soon as salary payments were resumed. The benefactor was and remains anonymous. The administrative staff members were offered 60-day bank loans on a similar basis. This was not well-received by many of the affected employees, who argued that, with their salaries withheld, they might never be in a position to repay the loans. Nonetheless, most of them accepted the loans out of sheer desperation. At this point, one staff member, Ray Menard, spoke out publicly against the administration's policy of groundless optimism, saying that it was time for the administration to admit that it did not know whether pending salaries would ever be paid.

As individuals, most of the teachers have demonstrated courage and loyalty to the school board by staying on the job, even in the face of payless paydays. Yet, as a group, they have failed to show similar courage. It is understandable that they should be tense and nervous, as they are, since their situation is so uncertain. Nevertheless, it is regrettable that, at a Louisiana Teachers' Association convention in the fall of 1960, they supported a legislative measure which provided that any teacher might be dismissed on the vague and undefined ground of "disloyalty." This measure struck a severe blow to the principle of teacher tenure. The same teachers who worked to pass that measure have since protested to at least one PTA which desired to support the elected school board that any such public statement would endanger their jobs, since they might be judged disloyal as a consequence. The New Orleans LTA chapter voted in late 1960 to stage a series of walkouts if its members were not paid on time. The walkouts did not occur, since a large part of the pertinent payroll was met, but they are still a possibility.

It must be said in defense of the teachers that, although it is difficult to understand their behavior, there are reasons for it. Many of them are sincere segregationists at heart. Few of them were prepared by the school administration to understand and accept the fact of desegregation. Many employees of the Orleans Parish schools have complained that they were seldom allowed to exercise their judgment and that they were often treated "like silly children" by the administration. All important decisions had to be made through lengthy command channels; individual initiative was discouraged. Perhaps this is the inevitable result of a strong administration; but, in any case, staff relations in the school system have not been happy. School staff members, often treated as irresponsible children, have behaved irresponsibly. This condition has been aggravated by many State laws directed at school teachers which forbid them the right of free speech in their classrooms. As a result, the atmosphere in most New Orleans classrooms has been one of tension, fear, and discord, an atmosphere not conducive to learning. This is generated not only by the teachers but by the students themselves. Many school employees are looking for other jobs. The general economic condition has prevented most of them from relocating in New Orleans; consequently, some who are free to leave the State are planning to do so. In the opinion of one member of a small administrative unit, all of his coworkers would have left already had they been able to find jobs elsewhere in the city. Some few teachers (no figures are yet available on this) have left the State. The teacher recruitment program is progressing fairly well in the North, but in Mississippi the recruitment program has been temporarily discontinued for lack of prospects. Many prospective Negro teachers graduating from Dillard and Southern Universities are going to California.

Conspicuous loyalty to the school board has been demonstrated by the teachers at the two desegregated schools. They, who came to understand the board's dilemma by painful personal experience, have sent a delegation to Dr. Redmond assuring him of their continued loyalty. The few children attending Frantz are probably getting the best education ever given to children in an elementary school in New Orleans.

Impact on business

The impact of desegregation on business can be summed up in five words—business is taking a beating.

Even before desegregation took place, retail merchants felt the pinch. Back-to-school sales were disappointing. Many potential customers simply did not know whether there would be any public schools for their children to attend.

Since desegregation took place, business has been hard hit. A large department store's business dropped 50 percent during the week of November 14. As a result, advertising outlays were cut 50 percent. All buying of merchandise was halted for fear of an excessive Christmas inventory, and the number of extra sales personnel usually hired for the Christmas rush was cut.

A partner in an advertising agency admitted that his clients were reluctant to spend money on advertising while sales prospects were so bleak.

The manager of the Home Finance Service, a loan agency, said his firm was collecting more than it loaned, which augured ill for potential firm income.

Even the banks were in difficulties. The legislature's actions to impair the credit of the Orleans Parish School Board put the banks in an impossible situation. Funds on deposit from the school board were seized by the legislature. One bank, the Whitney National, which continued to cash checks signed by the school board's agent, was removed as fiscal agent for the State. The Federal court decisions have resolved this situation, but the banks are now faced with a worse problem. The school board must negotiate a $12 million bank loan to bridge the gap between payment of State and city school taxes to the board. The State Bond and Tax Board has refused to answer the New Orleans School Board's request for approval of this loan, and a petition has been filed in Federal court which, if granted, would force the Bond and Tax Board to approve the loan. Even if this should happen, the banks will still be subject to State penalties for making the loan, and, with the punishment of the Whitney National Bank and the generally unsettled financial situation of the Orleans Parish School Board in mind, they are hestitant to lend the money. Unless some new factor is introduced into the school crisis, the bank directors must ultimately decide between protecting their businesses and rendering an invaluable but financially risky service to the community.

During the first weeks of desegregation, tourism fell off. A local hotel manager privately complained that many of his rooms were empty. The proprietor of a fine restaurant remarked, also privately, that his business had been halved. One week before the Sugar Bowl games, rooms in hotels and motels were still available. It was estimated by observers that the Carnival crowds were smaller than usual.

The impact of desegregation on business seemed to come as a surprise to many community leaders who should have expected it. Until Matthew Sutherland ran for re-election to the Orleans Parish School Board, community leaders remained conspicuously silent about the school crisis. A small group of influential men were concerned enough to create an informal committee which met and discussed the problem, but this group at first took no public stand. Three of its members, all Davis supporters, journeyed to Baton Rouge to urge the Governor not to call a special session of the legislature, but this trip was kept a secret. They returned reasonably satisfied that the Governor would not do what he ultimately did.

In the last days of the Sutherland campaign, this group of business and professional men gave money to the campaign and collected over a hundred signers on an advertisement supporting Sutherland. This was the first public statement by the power structure that in any way implied support of public education.

After the riots of November 16, many of the same men met with Mayor Morrison and signed a statement upholding law and order. They then lapsed into silence, which prevailed while the Frantz boycott was broken and the screaming mobs did violence and economic harm to those who broke it.

Late in December, over a hundred business and professional men again signed an advertisement—this time demanding an end to mob violence and threats and a return to the rule of law. For weeks, the sponsors had been unable to agree on the wording of the ad. It is to the credit of a few determined men of principle that it appeared at all. Most of the signers were immediately subjected to telephone and mail campaigns of abuse and threats. This seems to have strengthened their resolve.

Many of these men were instrumental in arranging the testimonial dinner for the four "open" school board members, Rittiner, Shepard, Riecke, and Sutherland, and for Dr. James Redmond, which was attended by more than 1,600 people.

Business in New Orleans is still reportedly slightly below the national average and unemployment is slightly above the average. Recent figures show local unemployment to be higher than at any time since the year following the end of World War II. It is impossible to say how much of this is due to the national recession and how much to the school crisis, but many private citizens have indicated their unwillingness to spend large sums of money on such things as cars and home appliances until the school crisis is finally settled.

Reactions to de jure desegregation

While no one can ever estimate with certainty how the citizens of New Orleans would have met desegregation if left to themselves, the overwhelming re-election of Matthew Sutherland to the school board indicates that much of the public was reconciled to the necessity of desegregation to preserve public education. This was the lesson hammered home by every organization which spoke out for public schools. This careful work was undone by the actions of the Governor, the legislature, and the White Citizens Council, all of whom suddenly announced that there were still alternatives to desegregation. These statements were proven forever false on November 14, 1960, but many of the State's leaders still act and speak as though desegregation has not occurred.

As November 14 drew near, parents all over the city grew fearful. It was expected that at least one uptown school in a higher socioeconomic area would be desegregated; segregationist parents at several uptown schools were vowing defiance. Instead, two downtown schools in the Ninth Ward were desegregated. This ward is inhabited by many extremely poor and racially prejudiced whites. It was in no way prepared for desegregation; and, when "D-Day" came, the parents of children at Frantz and McDonogh No. 19 withdrew their children immediately. No white children were left at McDonogh. One, Pamela Foreman, was left at Frantz. She was soon joined by Yolanda Gabrielle.

This situation has been described in the chronological section of this report. Some of the parents who placed their children in the St. Bernard schools have indicated that they would gladly return to their old schools if they were not terrified of their neighbors and of economic reprisals. The parents who have kept their children at Frantz have shown a courage and a belief in democracy which does them great credit. They have been willing to brave threats, obscenities, job loss, and physical violence for a principle. One woman whose children returned to Franz for a time remarked that her only friends were the women who drove her children to school and the members of the Negro church who offered help when she desperately needed it.

The white children in the Frantz school do not seem to have suffered greatly. They soon became accustomed to the mobs; they like their school and enjoy the special attention they receive; and some of them who had been taught to fear the police have come to understand that officers of the law are their friends.

The community as a whole is badly divided. While, as the mayor pointed out, only a fraction of the population took part in the demonstrations, it is also true that only a fraction of the population publicly deplored them. No official public or popular support was offered to the people who broke the Frantz boycott. Racial tensions have worsened. The citizens of New Orleans might have followed a strong leader demanding a return to sanity, but no such leader appeared. The strong leaders rallied the racists. The moderates have been virtually voiceless. Lacking the newspaper leadership of a Ralph McGill and lacking community leaders with the courage to speak out repeatedly for the rule of law, the moderate citizens of New Orleans have had no focal point to depend on, no one to rally around.

There are small but hopeful signs which may indicate that the citizens of New Orleans and their leaders are growing weary of stalemate. Some members of the New Orleans legislative delegation have grown stronger as they grappled with the State administration. Senator Russell Long has flatly told his constituents that they must cease their headlong flight from reality and choose between desegregated public education and no public education at all. Four members of the elected school board have staunchly withstood all State attempts to dislodge them so that the schools might be closed. The Federal Government has shown new determination to enforce the rulings of the Supreme Court. It is now proceeding against three State officials on contempt charges, and a legislator close to one of the officials involved says that the three men have told the Governor that they do not relish their hostage-like positions. There are rumors that the State may finally back down and leave New Orleans to its own devices.

Yet, two opinion polls, which have received virtually no publicity, indicate that, should New Orleans vote on the proposition of open schools, the vote would be dangerously close and might result in closure of the system.

The reaction of the white academic communities of Louisiana is worthy of special notice. Only two universities, Tulane and L.S.U., betrayed any recognition of the school crisis. Of those two, Tulane faculty and students were more outspoken than their counterparts at L.S.U., a State school; and, even so, L.S.U. suffered at the hands of the legislature.

Several Tulane faculty members were among the early organizers of Save Our Schools, Inc., and the S.O.S. board contains four Tulane professors and one faculty wife. The Tulane Faculty Senate was one of the first groups to take a stand in favor of open schools. After desegregation was an accomplished fact and while the legislature was threatening to investigate L.S.U., more than 300 Tulane professors signed a statement which defended Dr. McNeir of L.S.U., defended the principle of academic freedom, deplored the threats and violence leveled at families in the affected schools, and demanded a return to law and order. Curiously, most of the Tulane law professors have remained silent throughout the school crisis. Many citizens who looked to them to interpret the legal situation of Louisiana have been greatly disappointed. This faculty constitutes a voice of legal authority in Louisiana which, with one or two exceptions, has not been heard from.

This silence is perhaps reflected by the attitudes and beliefs of many Tulane law students. While other graduate students at Tulane circulated a lively denunciation of the State administration, these young men remained strangely quiet. Many of them privately voice attitudes of extreme conservatism, taking the position that the 14th amendment and the law which has flowed from it is illegally based.

At L.S.U., the faculty has been timid about taking a public stand for open schools since the legislature has shown itself quite willing to punish the university for harboring a professor who informed his legislators, in a private letter, that their actions were "a disgrace and a national scandal." The L.S.U. faculty's position is a delicate one; they teach in a desegregated university, but they are subject to intense pressure from State officials. Thus, when Professor McNeir and the whole of L.S.U. were threatened with legislative investigation, the faculty did not make any public statement, as did the Tulane faculty. Nearly a thousand L.S.U. students signed a petition in defense of McNeir and academic freedom, but the document was dismissed by legislators as "that silly nonsense," in contrast to the Georgia Assembly's acceptance of a plea for continued education originated by students at the University of Georgia. When the McNeir crisis became acute, some members of the L.S.U. faculty remarked privately that, should they openly defend McNeir, they feared drastic reprisals from the State, including possible direct control of the university and dismissal of L.S.U. President Troy Middleton.

A few faculty members and many faculty wives are working for O.P.E.N., the Baton Rouge open-schools group. When Governor Davis attempted to amend the State constitution so as to give him virtual control of the L.S.U. board, the Dean of the L.S.U. Law School campaigned against the amendment. Apparently, this is as far as the L.S.U. faculty members feel they can go. With an impending desegregation crisis in Baton Rouge, it seems likely that they will have to commit themselves further in the near future. A recently-passed legislative resolution demanding that all State educational institutions screen job applicants to determine their adherence to "our way of life" may also have to be fought, if it is actually applied. The plain fact is that L S.U. is entering an era of difficulty.

The impact of these events on the reputation of New Orleans and of the State was severe. The press of the Nation and of the world was practically unanimous in its condemnation. The Louisiana news media, however, seemed reluctant to criticize even the gravest outrages. As a result, the State moved further and further away from reality.

3. Public Opinion

The New Orleans school crisis was a local problem with national and world significance. The events which comprised the school crisis, and their significance, were the subject of extensive mass media coverage in this country and abroad.

National and foreign coverage

As for the national press, it was obvious, from the day of the downtown riots, that the carefully constructed image of New Orleans as a charming, easy-going, civilized metropolis was in the process of destruction.

The New Orleans story was thoroughly covered by, among others, NBC, CBS, *The New York Times, Life, Time, Newsweek, The New York Herald Tribune,* and papers in Los Angeles and San Francisco, all of whom had journalists and film crews on the spot. CBS did a documentary for its *Eyewitness to History* program. An ABC documentary on the first week of desegregation was cancelled by the local ABC affiliate. Both CBS and NBC news did numberless interviews of local citizens for their nightly news broadcasts. The depth of this coverage confounded local and State officials, who resented the reporters and seemed to feel that they were stirring up trouble.

The Louisiana legislators did not seem to understand at first that their most outrageous utterances were being broadcast nationwide. When this fact, and resulting disapprobation, sank in, some of the legislators tried, without much success, to curb the tongues of their confreres. Others declared that they cared nothing for outside opinion; still others attempted to bar the press from house sessions. This move was backed by the Governor but it failed to pass. The legislators and the Governor complained that the press "made them look bad" and that it exaggerated the troubles in New Orleans. In actual fact, the national press went to great lengths to acquit New Orleans of wrongdoing. Many reporters covering the story knew and loved the city; they were highly reluctant to condemn it until the threats and violence reached feverpitch. The well-known writer Robert Ruark—not on the scene, but a close reader of reports from New Orleans—wrote a nostalgic column of reminiscences about New Orleans, adding that he now preferred to stay away and remember it as it had been. This column was not carried locally, although Ruark's column usually appears in the New Orleans *States-Item.*

The charges of exaggeration leveled at the national press were unwarranted. The coverage was fair and accurate. Those who objected to it did so on the grounds that the coverage of the violence did not include any mention of those who took no part in it. This is largely true, but it has never been the responsibility of a news reporter covering riots to extend his story to those who are not rioting. This responsibility rests with the editorial staff, and several national papers pointed out editorially that New Orleans citizens were being disgraced by a minority. Mayor Morrison, taking the view that the prolongation of the demonstrations at the desegregated schools was the fault of the press, requested the reporters to form a small news pool. The reporters rejected this suggestion, telling the mayor that the demonstrators were inspired by racists, not by the press.

Thanks to the widespread national coverage, letters, money, and offers of help for the brave families who broke the Frantz boycott poured into New Orleans. The stories written about the back-to-school movement did much to offset the grim picture of New Orleans held by most of America. The generous coverage of the statement by the business and professional men and the testimonial dinner for the school board had the same effect. This is a fact which some local officials have not yet grasped. Its importance in preserving some shreds of the previous national image of New Orleans cannot be overestimated.

After the immediate crisis died down, discussions of the New Orleans situation appeared in *The New York Times Magazine, The Reporter, The Nation, The Commonweal,* and *The New Republic,* among others. While these discussions differed on several points, they were unanimous on one point—that local leadership had failed to meet its severest test. It seems safe to say that the nation as a whole holds this view. *The Nation* singled out the ordinary citizen who had taken no constructive action as the villain of the piece. *Time* and *Newsweek* were inclined to blame the State administration to the exclusion of anyone else. *The Reporter* and *The Commonweal* laid some blame at the door of local Federal officials and their Washington superiors. This, too, has been accepted by many Americans (including some local citizens), who wonder openly why the Federal Government has not curbed the actions of the advocates of last-ditch resistance.

Residents of New Orleans who have traveled over the country during the crisis report that Louisiana is almost universally condemned and that New Orleans now bears a stigma similar to that of Little Rock. Ralph McGill compared the New Orleans crisis to the inevitability of a Greek tragedy, as did columnist Inez Robb. Meanwhile, officials in Alabama and Mississippi blame our officials for allowing desegregation to occur.

The more moderate Southern States blame Louisiana for its futile resistance which may result in the destruction of the local option, tuition grant, and pupil placement laws on which they depend to ease their desegregation problems. Possibly, we are now the most unpopular State in the union.

The international press has been represented by reporters from England, Sweden, and Australia, among others. None of these reporters has formed a favorable impression of New Orleans or of Louisiana and their reports reflect directly on the international prestige of America. Unquestionably, the New Orleans story is being used to great effect by the Communist propaganda machine. It was reported by Dr. Tom Dooley that the inhabitants of a small village in Laos knew all about Little Rock. It seems fair to suppose that they will shortly know about New Orleans.

In sum, the New Orleans crisis has hurt Louisiana in the eyes of America and of the world. Before it is settled, further damage may be done. The world is small, now that global communications exist in profusion, and all Americans have an important duty to uphold the democratic principle in the eyes of the citizens of the world. So far, this argument has fallen on deaf ears where ardent racists are concerned, but someday they must discover that their responsibilities extend beyond parish limits. As long as situations like ours in New Orleans occur, American prestige will continue to sink.

Press coverage within the State

Although many people in New Orleans learned of the various events related to the desegregation of public schools through personal experience or by word of mouth, the principal source of information had to be the various news media—newspapers, magazines, radio, and television.

Perhaps the first responsibility of the news media is to provide adequate and objective reporting of the facts that make news so that their readers may have sufficient information to react responsibly and intelligently. For the white population of New Orleans, it may be assumed that the two major sources of current information on local issues are the television stations and the morning and afternoon newspapers of the Times-Picayune Publishing Company—the *Times-Picayune* and the *States-Item*. Although New Orleans has a number of radio stations, only two of them, WWL and WDSU, provide what may be called a comprehensive coverage of news. For example, WDSU carried live broadcasts of the debates of the State legislature that concerned the integration crisis.

The Negro population, on the other hand, has available to it both the previously mentioned news media and the Negro newspaper, *The Louisiana Weekly*. Because it is a weekly and of a limited number of pages, the reporting by this newspaper can be neither as timely nor as comprehensive as that of the daily newspapers and television news programs. Its readers, however, do enjoy the advantage of being able to obtain an additional viewpoint.

Any attempt to evaluate the adequacy of news coverage by these news media results in a dilemma—the evaluator's knowledge of events which form the basis of evaluation comes primarily from the media being evaluated. Hence, any conclusions as to the adequacy of coverage must be tentative.

To the nonresident reader or listener following the coverage of the news events concerned with segregation and desegregation, it would appear that certain groups committed to one point of view tend to receive more news coverage than do opposing groups. However, the news media cannot be fairly criticized for this seeming disproportion of coverage, since their function primarily is to report events that constitute news. Segregation groups, chiefly the White Citizens Councils, have received more news coverage than groups such as the Committee on Public Education and Save Our Schools, Inc., because of a longer history of existence and greater activity. One consequence of this disproportion is an inevitable publicizing of the opinions and ideas expressed at the event being reported. Mass meetings sponsored by the Citizens Councils, for example, include the making of speeches; and the reporting of the content and intent of those speeches is part of responsible news coverage. The same responsibility extends to the reporting of the activities of opposing groups. But, put simply, these latter groups have created less news than have the segregationists. Moreover, the activities of the segregationists have been not only more frequent, but more militant. For example, there has been no real counterpart to the White Citizens Councils' mass meetings. Hence, even in carrying out their function as reporters of events, the news media have often tended to publicize the segregationist viewpoint more than opposing viewpoints.

Related to this disproportion in reported activities of opposing groups is the public conception of greater masses supporting the position of the more often-reported group. Whether this is true or not, the image thus created is likely to be highly persuasive to the undecided.

All responsible news media are undoubtedly influenced to some extent by a concept of public obligation to report the news so that a tense and dangerous situation may not be aggravated. Additionally, they are probably desirous of creating a favorable national image of the community which they serve. At times, these objectives may result in a suppression of news which in another emotional climate might be reported. Certainly, it influences decisions as to which parts of a news story will be featured and stressed. The nearest New Orleans came to a race riot in the current desegregation crisis was on November 16, 1960, when a crowd gathered in the streets of the business district around the city offices. Several aspects of the reporting of this and subsequent related events by the two local daily newspapers suggests that the inflammatory aspects of the situation were minimized. The reported size of the crowd is one example of this. The front page story of the *States-Item* on the afternoon of the demonstration stated that the crowd "was estimated at between 500 and 1,000." The front page story of the *Times-Picayune* the following morning, November 17, said the crowd was "estimated in the hundreds." A story on page 6 of the same paper said, "Police estimated the crowd around 1,000." Contrasting with these estimates were the following: *New York Times*—"upwards of 2,000;" *Chicago Daily News*—"more than 2,000;" *Newsweek*—"about 3,000;" *Time*—"2,000;" and *Louisiana Weekly*—"thousands." Another example is the reported composition of the crowd. Both the *Times-Picayune* and the *States-Item* emphasized the teen-age membership of the crowd. The *States-Item* characterized the demonstrators as a "surging, jeering mass of teen-agers" and, two paragraphs later, stated, "Few adults were reported in the crowd." The *Times Picayune* spoke first of "tumultuous teen-agers;" and much later its story stated, "The group included a number of adults as well." The *Chicago Daily News* described the crowd as composed of "mothers and teen-agers." The *Manchester Guardian Weekly* made no mention of age of the demonstrators and called them "the worst gang of thugs one has ever seen." *Newsweek* did call the crowd "teenagers," and the *Louisiana Weekly* spoke of "thousands of young whites." Finally, the local daily papers did not report some incidents which were considered newsworthy by out-of-state papers and did not stress individual, isolated instances of violence. For example, both the *New York Times* and *Newsweek,* in coverage much more limited than that provided by the local papers, reported that a segment of the white demonstrators was stopped by a group of armed Negroes. As the *Times* stated, "Two blocks away, on the fringe of the demonstration, occupants of a Negro quarter emerged from their homes gripping bricks, baseball bats, and sticks. A group of students began to jeer at them." Fire trucks pulled into Carondelet Street ". . . and the youths rushed away to the new scene of action." *Newsweek* reported, "About 100 boys and girls started down a street inhabited largely by Negroes. Then residents, men and women alike, armed themselves with clubs, baseball bats, and bricks, and blockaded the street. The whites stopped to debate. 'They've got knives,' said one, 'We'll get cut up.' Another said, 'Let's go get knives ourselves.' Finally, police dispersed the crowd." Neither of the local papers reported such an incident.

Obviously, short of public opinion sampling by trained specialists, there is no adequate way to measure the impact of the reporting of news by the various media. Yet, if there was an impact, it seems reasonable to conclude that the segregationist viewpoint was furthered more than opposing viewpoints. At the same time, with regard to respect for law and order and the prevention of further violence, as well as the creation of a favorable national image, it may be concluded that the local newspapers, if not minimizing the inflammatory aspects of the situation, at least did not reinforce them.

An informed citizenry requires not only the knowledge gained through objective reporting of current happenings, but also information and opinion about the history and theory of possible methods of resolving the controversy. The series of articles published in the *States-Item* during the month of August, 1960, dealing with various ramifications of the impending school desegregation in part met this need. However, the series appeared so late in the crisis that its value was probably considerably diminished. Yet, it may have been the most valuable contribution by this New Orleans news medium to an intelligent resolution of the problem. In addition, an editorial in each of the newspapers in the last week of August discussed some of the possible lines of action and their consequences.

Television Station WWL–TV performed a similar service to the community in the presentation of a half-hour informational program on the effects of school closure in Little Rock. Although the program was subsequently rerun, this was the only essay of this nature by this station; and it occurred after, and not before, the fact of desegregation.

In addition to reporting news and presenting information on the basis of which intelligent decisions might be made, the newspapers, one of the television stations, and one of the radio stations assumed editorial positions with respect to various facets of the desegregation issue, in an effort to persuade the public to accept certain interpretations of the facts and to support certain lines of action. The two newspapers assumed these positions belatedly and reluctantly, for the most part; and, in most instances, their position could not be characterized as forthright assumption of a role of community leadership. At least by May 16, 1960, when the Orleans Parish School Board announced its inability to reconcile judicial decree and State legislation, it became clear that the public school system of the parish was endangered. Up to that time, the two newspapers had ventured no editorial expression with regard to the possible destruction of the public schools because of the apparent impasse. Ten days later, both papers discussed editorially the problems confronting the community, but they took no clear position with respect to maintaining a public school system if integrated. Not until August 26, 2 months later and only 12 days short of the scheduled desegregation, when the threat of school closure was at its peak, did the 2 papers finally state a firm conviction, as set forth in the *States-Item:* "Preservation of public education at this time stands out as paramount to preventing a departure from the rigid school segregation of the past." This position, once taken, was not followed by any substantial reiteration in the following crisis-filled months of 1960. Only three editorials featuring the same position appeared in the two papers in those months.

At no time did either of the two papers justify their editorial opinion on the basis of rights to which Negroes are entitled. Rather, as stated by the *Times-Picayune* in its editorial of November 11, "Damage done to the school system through forced integration will not be as great as total destruction of the system through closing of the schools."

Editorializing in the two daily newspapers in the days immediately preceding, surrounding and subsequent to the actual desegregation of the New Orleans schools became more frequent. Both papers supported the incumbent member of the school board when he sought re-election on a platform of open schools, and they considered his election "a positive indication that the people of New Orleans want their public schools kept open." Following the demonstrations in the city streets and at the desegregated schools, both papers advocated in several editorials respect for law and order and an end to violence. The *States-Item* severely criticized the State legislature for pursuing extralegal means of circumventing the courts, exceeding its legislative function, violating home rule, and discharging public school employees. Both newspapers took a repeated strong position against the increase of the State sales tax which had been advocated by the State administration as a method of support for a private school system. Both papers deplored the punitive actions of the legislature in withholding funds from the New Orleans school system, thereby depriving teachers of their pay.

When compared with the possibilities for community leadership exemplified by such newspapers as the *Atlanta Constitution* and *Journal,* the interpretation of facts and calls for specific action as set forth editorially by the *Times-Picayune* and *States-Item* usually came belatedly, reluctantly, vaguely, and timorously. Constructive editorializing tending to lead the citizenry to intelligent solutions to desegregation problems was minimal and tended to follow rather than to precede situations where editorial leadership was most badly needed.

Editorial comment by newspapers in the other major population centers of Louisiana have tended to follow the pattern as indicated in the instances of the two New Orleans newspapers. With respect to the fact of desegregation, a fairly clear line of demarcation between upstate and downstate newspapers existed. Papers from the Southern part of the State, such as the Baton Rouge *Morning Advocate* and *State Times,* the Lake Charles *American Press* and the Hammond *Vindicator,* were inclined to deplore the decisions of the courts, but, at the same time, to urge a realistic acceptance of them and to be critical of the activities of the legislature. Northern State newspapers such as the Shreveport *Times* and *Journal,* the Monroe *News-Star,* and the Ruston *Daily Leader* praised the activities of the State administration and of the demonstrators at the New Orleans schools. Only on the question of a proposed sales tax increase as a "segregation measure" was there unanimity of press opinion—all the major newspapers of Louisiana opposed the measure. As in the case of the New Orleans newspapers, constructive editorializing tended to follow rather than precede important events.

The editorial leadership that did exist in New Orleans during the school crisis was provided by television Station WDSU–TV and its companion radio Station WDSU. In about a year and a half, these two media have presented more than 50 editorials relating to the complex problems of desegregation. Their editorial position has seemed to be a full acceptance of the concept of editorial responsibility to interpret facts and to advocate constructive lines of action. The precise impact of these editorials cannot be determined, but William Monroe, the news director for the two stations, reported that the expressed public reaction to the editorials has been about evenly divided. He believes that, while the editorials have probably not changed many firm opinions with regard to segregation-desegregation, they have tended to lend support to the segment of the population endeavoring to take a moderate position of minimal compliance with the law but acting always within the framework of law. In one instance, members of the New Orleans delegation to the State legislature requested that the stations editorialize on an issue to aid them in informing and persuading their constituents and fellow legislators.

Television Station WDSU–TV and radio Station WDSU adopted a policy of granting equal air time to groups which wish to speak in opposition to the editorial position of the station. This policy has served the community well in providing a forum. The television station has, moreover, provided a forum in a series of panel discussion programs on the school crisis and related issues, in which representatives from opposing groups participated.

In Baton Rouge, the seat of State government in Louisiana, television Station WBRZ presented a series of editorial opinions seriously questioning the activities of the legislature and the administration in the areas of the sales tax, the investigation of the Louisiana State University, and the responsibility of each with regard to the New Orleans situation.

The effects of the various news media on the New Orleans desegregation situation are not clearly known. The following general observations with regard to the activities of these media during the past year can be made:

1. News reporting has tended to support the ideologies and activities of the extreme segregationist.

2. At the time of violence New Orleans newspapers seemed to act on the assumption that it was their responsibility to attempt to prevent further violence by minimizing the size and composition of the crowds of demonstrators.

3. Informational campaigns by the newspapers and by television and radio stations have been either non-existent or have been begun so late as to have effectively diminished their impact.

4. Constructive editorializing by newspapers has tended to occur only at times of extreme stress—*after* the point at which leadership was required—and has reflected an expedient rather than an ethical point of view with regard to the questions of desegregation.

5. The only medium to accept firmly and thoroughly the responsibility for community leadership through early and consistent editorializing and through providing a community forum was New Orleans television Station WDSU-TV and radio Station WDSU.

The failure of most of the news media to come out strongly in favor of law and sanity was all the more serious in view of the reluctance of the community's leaders to lead on the issue of school desegregation. This left the city leaderless in a severe crisis, and an easy prey for the most rabid elements.

4. The Role of Leadership

It is a long established fact that leadership takes on added significance during periods of social crises. Therefore, it should be instructive to analyze the role of leadership during the 1960–61 school desegregation crisis in New Orleans.

As in any other metropolis, leadership in New Orleans is diverse. The "leadership class" is composed of every significant element of the city's population. Since the interests and goals of the several social segments differ in some important particulars, the attitudes, opinions, and activities of the leaders, though overlapping on certain important issues, will tend toward diversity, even conflict, on certain other major issues.

No other issue in recent history has affected New Orleans so widely and deeply as has the issue of racial desegregation in public education. So fundamental is this issue that it touches directly or indirectly every aspect of community life. This section of the report describes the way the "leadership class" responded (or failed to respond) to the school crisis.

THE SEGREGATIONISTS

Immediately following the May 1954 United States Supreme Court decision, a new organization was founded in New Orleans. It is called the White Citizens Council. This organization is composed of a relatively few, but extremely rabid white supremacists. The expressed purpose of this organization is to preserve "total segregation." This organization, of course, focused its attention primarily upon the preservation of segregation in public education, though from time to time it emphasizes the importance of maintaining segregation in other areas of community life.

Since education involves children, and since children represent the hopes, the aspirations, as well as the fears and failures of parents, it was not long before the question of desegregation of the public schools in New Orleans became an explosive issue. The segregationists resurrected every fearful and despicable Negro stereotype in their efforts to influence the minds of white parents.

Using every medium at their disposal, they pictured Negroes as lazy and shiftless, mentally inferior, dirty, immoral, criminal, diseased, violent, savage, "pushy and uppity," conspicuous and boisterous in their behavior, and under the influence of communist-inspired leaders.

These stereotypes, and more, were eloquently expounded by the most rabid segregationists in the State and many influential segregationists from out of the State. In fact, a list of the segregationists who appeared at mass meetings of the White Citizens Council of New Orleans would read like a "who's who among white supremacists." Among the speakers were influential public figures from many other Southern States. Also appearing at these mass meetings at one time or another were the "top" white supremacists of Louisiana including: Judge Leander Perez; Governor Jimmy H. Davis; State Senator William Rainach; Emile Wagner (school board member); Attorney General Jack P. F. Gremillion; State Superintendent of Education Shelby M. Jackson; and Dr. Emmett L. Irwin (president, White Citizens Council of New Orleans).

In addition to the "top" segregationist leaders whose names are listed above, the White Citizens Council in New Orleans frequently presented "lesser lights" who spoke to smaller groups. Furthermore, many public figures, such as outstanding business and professional men, and national and State political figures—particularly candidates for public office—were pressed into making strong statements about segregation. Also, they were maneuvered into encouraging "civil disobedience," since they deny the validity of the *Brown* decision, as well as the possibility of its enforcement. It was not surprising that the White Citizens Council became politically powerful in a very short time.

The values, traditions, and fears propagandized by this segregationist organization are essentially rural. Consequently, since the Louisiana State legislature is dominated by representatives of rural communities, it began immediately to pass a rash of anti-Negro laws designed to preserve what the lawmakers termed "Southern traditions." Some of these "Black Codes" were obviously unconstitutional, even to the lawmakers themselves. They were passed for the avowed purpose of circumventing Federal court decisions, or at least, as delaying tactics.

Unfortunately the rural conservatism of State politics had a profound effect on the situation in New Orleans as a mayor with a liberal reputation found it necessary to moderate his position in his drive for the governorship. This change of position came as a shock to the mayor's perennial supporters and dealt a crushing blow to the hopes of Orleanians that the office of mayor would prove a source of strength and leadership for open schools. The White Citizens Council took advantage of this absence of official leadership, and by default became the dominant political force in the community in the education crisis. Mayor Morrison must accept much of the responsibility for the atmosphere thus created.

The main targets of the White Citizens Council were the NAACP, which was labeled as communist-dominated; the United States Supreme Court, which was accused of usurping legislative prerogatives and substituting sociological theory for legal precedents; and white liberals, whom the council subtly accused of being either communists or dupes of communist conspirators. This propaganda is apparently without foundation, because, during the long months of bitter controversy, no concrete evidence to substantiate these accusations has been produced.

Joining in support of the program of the White Citizens Council were numerous neighborhood organizations, which met regularly in order to give lesser white supremacists an opportunity to express themselves on the issue of public school desegregation. Some of these leaders base their contentions on far-fetched rationales. An example of this is a statement by Mrs. B. J. Gaillat, Jr., president of Save Our Nation, Inc., in which she contends that there is ample evidence that the Bible and the Catholic Church both support racial segregation. She declared, "The issue is not one of hate, violence, or disobedience. Rather it is one of obedience to God's law. God gave Moses the Law of Segregation on Mount Sinai."

THE SUPPORTERS OF PUBLIC EDUCATION

It was not until the spring of 1960 that any white leader of influence in New Orleans made a public statement in support of maintaining the public schools. This despite the fact that it had long seemed probable that the Federal court would order at least "token" integration in the New Orleans schools to begin in September 1960. Thus, for almost 6 years of local litigation, the most frequently heard spokesmen in the white community were the segregationists.

Finally, during the spring of 1960, after months of fruitless discussion, a few "moderate" white leaders were able to make themselves heard. Their stated purpose was to "Save Our Schools" (SOS). They made it clear from the beginning that they were not advocating desegregation nor did they necessarily agree with the legality or spirit of the United States Supreme Court decision of May 17, 1954. They made it crystal clear that their only purpose was to maintain public education.

Soon after SOS began its campaign to preserve public education in New Orleans, another group, which became known as the Committee on

Public Education (COPE) became active. Whereas SOS attempted to recruit to its ranks white leaders from the "power structure," COPE was, at the onset, composed mostly of average white parents of public school children.

There was real fear among the two groups formed to maintain public schools in New Orleans that, if the schools were ordered desegregated, they would be closed in accordance with State laws. The struggle, then, on the part of a small number of white moderates to maintain public education had little promise of success. Nevertheless, they became increasingly vocal. They published pamphlets, called public meetings, issued many statements to the press, and buttonholed important business and professional leaders in their attempt to create a public opinion favorable to keeping the schools open, even if desegregated. Within a short period, they were able to stimulate public debate on the issue of "open" or "closed" public schools.

Unfortunately, during the first few crucial months of the debates, members of SOS and COPE were unable to persuade influential business and professional men to declare themselves for the maintenance of public education.

It was not until Matthew Sutherland ran for re-election to the school board in November that a few important leaders in religion, business, politics, and education began to issue somewhat timid statements to the effect that we must maintain public education "at all costs." A short time before, the members of the Orleans Parish School Board, except segregationist Emile Wagner, became publicly concerned about keeping New Orleans schools open. It was then that Lloyd Rittiner, president of the school board, in a televised speech pleaded with influential leaders in the white community to let the board know their feelings regarding the issue of public education. After his passionate plea, several church groups and a few independent leaders joined in the efforts to preserve public education. As a result of this enlivened program to "Save Our Schools," Sutherland, who campaigned on this issue, won an overwhelming victory over the segregationist's prime candidate, John Singreen.

The supporters of continued public education interpreted Sutherland's victory as a mandate from New Orleans voters that the public schools must be kept open despite "token" desegregation. This victory also gave some courage to New Orleans members of the State legislature. Though they still insisted that they were 100 percent for segregation, a majority of these representatives worked diligently to keep the State legislature from "reading out of office" members of the school board and the Superintendent of Schools, who were striving to keep the schools open with four Negro girls assigned to previously all-white schools. Their efforts were most significantly highlighted when they led the fight to prevent the Governor's backers in the legislature from levying a sales tax designed to raise $28 million to support a system of "private" education for white children who might be assigned to desegregated schools.

The peak of the desegregation crisis lasted from November 14 until the Christmas holidays. After that, some powerful businessmen began to join the ranks of those who had struggled so valiantly to keep the schools open in the face of the stiffest opposition from powerful political leaders.

Throughout all this crisis, the most abused leader in New Orleans was Federal Judge J. Skelly Wright. Time after time, it was his difficult duty to set aside State laws, overrule the State administration orders, and place practically every public official under restraining orders to prevent interference with the desegregation of McDonogh No. 19 and William Frantz Elementary Schools.

The January 30th banquet which some private white citizens held in honor of the four "moderate" members of the school board and Superintendent James Redmond, who kept the schools open in spite of all manner of legal, extra-legal, and illegal harassment, may have been the turning point in the desegregation crisis. More than 1,600 citizens attended this banquet. The guests of honor were given hearty and sincere acclaim.

THE NEUTRALS

Insofar as the issue of public school desegregation is concerned, by far the largest segment of leaders in New Orleans may be classified as "neutrals." Included in this category are influential leaders in business, labor relations, politics, the professions, and civic and social affairs.

During the long and bitter controversy over the moral, legal, and social aspects of desegregation, the vast majority of the "top" leadership in New Orleans made no public statement in regard to this all-important issue. The truth is that, time and time again, they refused to speak out, despite the fact that certain other responsible citizens begged them to do so. It was not until the school crisis had already developed to a critical point that a "hundred" of these leaders began to issue cautious statements intended to create a favorable climate for the preservation of public education in spite of "token" desegregation. Generally, the statements issued by them were designed to discourage lawlessness.

There may be several reasons why so many of the influential leaders in New Orleans have remained "neutral" during these difficult months of controversy over the public school issue:

1. Since race relations in New Orleans have been relatively peaceful for several decades, some leading citizens seemed unable to conceive of

the possibility that they would not remain so. Even a few days before the long-awaited Federal court order to desegregate, some of the most powerful civic leaders were still insisting that there was no cause for deep concern—that the mayor and police department would be able to cope with whatever little disturbance might occur. Many others trusted the Governor to handle the school crisis as he had so often assured them he would. Some even insisted that, if the Federal courts did order desegregation, city officials and the school board would handle the problem better without help from private citizens or organizations. Thus, they regarded it as a purely legal matter and believed that it would be confined entirely to legal channels.

To reinforce their confidence that the desegregation problem would be handled effectively by elected and appointed officials, some "top" leaders pointed to the peaceful desegregation of public parks, buses, and of the State college branch in New Orleans. They flatly refused to admit that racial violence might occur in New Orleans over the desegregation issue.

2. Some of the most influential politicians in the State have tried desperately to remain "neutral." They are evidently afraid of political retaliations. A few acknowledged that they would like to have taken sides with the "Save Our Schools" movement but feared that it would mean "political suicide." Others only reluctantly identified with the segregationists, because they were afraid that espousing such an extremist point of view would definitely lessen their chances of ever achieving national status. Only when these political "neutrals" were assured of substantial local backing did they venture to identify positively with either side of the school controversy. This fact highlights the important influence "top" civic leaders might have had in helping to decide State and local policies in regard to the desegregation issue. In other words, the politicians generally feel that it is better to wait until the civic leaders speak before they dare to take sides on such an explosive issue as desegregation.

3. Some "top" leaders have remained "neutral" because they fear economic reprisals. Those who might identify with the segregationists fear being boycotted by Negroes, and those who might identify with moderates or the desegregationists fear being boycotted by segregationists. Thus, by and large, economic leaders have remained "neutral."

Not only have most businessmen remained "neutral" in the public school controversy, but certain "top" professional people have failed to take sides because they, too, fear economic reprisals. One lawyer, for example, refused to give a statement concerning the obvious unconstitutionality of certain antidesegregation laws because he believed that his law firm would lose some of its important clients who might disagree with his stand.

Even some less influential citizens have tended to remain "neutral" because they are afraid that they might lose their jobs. This is not an idle fear, because some have, in fact, done so.

4. A number of leading citizens in New Orleans have remained "neutral" because they have underestimated their possible effectiveness. An example of this is a university professor who contended that he has remained silent because: "No one wants to hear what an egghead has to say about such an explosive political issue as desegregation." He went on to express a fear that his statement might undermine his effectiveness in his profession, cause his university to lose support, and yet accomplish nothing of a positive nature. He felt, therefore, that his best role was to teach his students the truth as he saw it and not become involved in this controversial issue.

5. There is no concrete evidence of this, but it is likely that the fear of social ostracism is the most pervasive reason why so many prominent New Orleanians have remained "neutral." Thus, a white liberal was called upon to express his opinion at a PTA meeting on whether or not that particular school should be boycotted by white children if it were desegregated. He made some general statements in answer to a direct query but was reluctant to state his desegregationist view because he said he feared that his daughter might suffer the consequences. He was afraid that she might be reminded that her parents were "nigger-lovers."

Therefore, for whatever reason, most of the influential white leaders in New Orleans have elected to remain "neutral" on the explosive issue of school desegregation. There is some indication, however, that, because the city fears the loss of tourist trade and that certain industries may refuse to settle here if negative activities of certain segments of the community continue, a stronger stand is being taken by those formerly silent, who realize the importance of maintaining our public school system.

DESEGREGATIONISTS

The contest betwen State and Federal authorities over whether or not public schools in Louisiana will remain segregated, become desegregated, or close altogether has been so tense that only a few white leaders, mostly in religion, have dared to identify themselves as desegregationists. Thus, during the several weeks of the most intense crisis, some white religious leaders and a few religious organizations made public pronouncements to the effect that racial segregation is morally wrong and that the United States Supreme Court was legally correct in outlawing it in public education. A handful of white civic leaders made similar statements, but no important white organization so declared itself.

Therefore, by and large, the active desegregationists in New Orleans are Negroes.

It is a widely known fact that Negro leaders are likely to be divided on many social issues. Nevertheless, where the desegregation of public education is concerned, they present a united front. All segments of leadership in the Negro community have publicly expressed a strong desire to see racial segregation in public education abolished immediately.

The only noticeable difference of opinion among Negro leaders regarding the desegregation issue concerns the degree of difficulty involved in bringing about compliance with Federal court rulings.

Some are optimistic. They visualize an end of segregation in public education in New Orleans almost immediately. They predict that the boycott in effect at the two desegregated schools will be substantially broken by September 1961 and that a considerably larger number of Negro children will be admitted to desegregated classes.

Other Negro leaders constantly warn their followers to brace themselves for years of costly litigation and bitter racial feelings before desegregation becomes a reality.

Perhaps the most interesting strategy Negro leaders have employed during this desegregation crisis is this: most of the "top" Negro leadership have advocated that Negroes play a "waiting game"—sit back and allow this issue to be legally decided in the courts and implemented by white "moderates."

Prior to the crisis (between 1952–58), the NAACP did have occasional mass meetings, at which time reports were made in regard to the *Bush* v. *New Orleans Board of Education* case. At these meetings, money was raised to support the NAACP. However, there have been no public demonstrations, no lawlessness, no attempts to threaten or intimidate those who opposed the association, and few attempts to publicize the case for desegregation. By and large, Negro leaders have defined this as a legal, constitutional fight which they feel confident will be won by sane, stable local and national leaders.

Perhaps the most serious blunder made by white leaders in New Orleans is that they have failed to utilize the knowledge, wisdom, and insight of established Negro leaders in their attempt to achieve some orderly pattern in the public education controversy. At no time have the city or State officials sought the advice or counsel of informed Negro leaders, despite the fact that on numerous occasions Negro leaders have volunteered their services.

Certain city officials have said that the violence, disorder, and racial hatred that New Orleans experienced during recent months was caused largely by "outsiders" and a few uninformed, irresponsible local whites. They may, in some measure, be right. It seems certain, however, that the ugly mobs would not have formed if they had not felt certain of the approval or at least the indifference of influential white leaders, some of whom appeared to use the crisis for political ends.

Negro leaders realize that the outcome of the desegregation issue will be significantly influenced by the opinions and actions of the white masses. Therefore, they are beginning to sense an imperative need to communicate their point of view to the total community. Up until now, the white population has been reached primarily by segregationists who seek to inflame racial fears with threatening pictures of the "evils" that will accrue from desegregated education. Thus, Negro leaders are attempting to find some way to unmask the stereotypes and fears propagandized by white supremacists.

Throughout all the bitter racial controversy of the past several months, Negro leaders have remained helpless in the face of the derogatory racial propaganda that has been spread by radio, television, newspapers, pamphlets, handbills, telephone calls, and anonymous letters. They, themselves, have had virtually no opportunity to answer slanderous attacks through public media.

Not only are Negroes silenced insofar as mass media are concerned and ignored by State and city officials when racial issues are being decided, but they are also systematically excluded from the vast number of "citizens committees," planning boards, and professional and business societies where public opinion and policies are formulated. Consequently, they have very little opportunity to communicate with "white men of power" or with the white masses. Negro leaders are unhappy and impatient because they have not been able to play a more important part in influencing public opinion. Seldom during this long desegregation crisis have Negroes had an opportunity to express publicly any opinion concerning the issue except in segregated Negro gatherings. None has yet had the opportunity to address the powerful civic, economic, and professional organizations in the city where community plans are formulated, and which have such a decisive influence on public opinion.

We may conclude, then, that leaders in New Orleans waited too long to prepare the citizens to respond positively to the desegregation of public schools. They did not react to the invitation by SOS and COPE, the two "grass roots" organizations, to join forces with them, and to take a stand on keeping the schools open, even if desegregated. It is very likely that, if greater efforts had been made to prepare the minds of citizens for this eventuality, as was done in some other cities, much of the bitterness, violence, and economic loss experienced in 1960–61 might have been avoided.

The timidity of New Orleans' white leadership may be easier to understand if one considers the intense fanaticism that the desegregation issue aroused. This fanaticism is so violent and so completely divorced from reason and common sense, that it must be studied from a psychological, rather than a political, viewpoint.

5. Psychological Aspects

The conflict over desegregating the public schools has important legal, social, political, and economic implications; but these are actually overshadowed by the psychological aspects. An issue which can arouse such passion on both sides, such widespread discussion and concern, obviously involves strongly-held feelings and attitudes. Such strong feelings tend to dominate the rational thinking of men, frequently leading to rash and ill-considered actions.

This Committee feels that, if this issue could be approached dispassionately, the otherwise difficult legal, social, economic, and political problems could be solved much more quickly and expeditiously, without most of the rancor and hate now being engendered and without the real sacrifices now being made by so many.

For these reasons, it appears worthwhile to consider some of the psychological and emotional factors in the hope that such consideration may eventually lead to more reasonable actions.

The majority of white people seem relatively uninvolved with the issue. They do not seem to feel strongly one way or the other. Certainly, they take no public stand nor do they join organizations on either side. Many say they will become involved if it affects them personally, either through their children or through their pocketbook; but they do not react on principle or because of concern for preserving or changing certain social customs and institutions.

Some people—who, because they were political or civic leaders, did feel involved—believed up until the last moment that New Orleans "could never be another Little Rock." There was a magical belief that such violence "couldn't happen here" or that a vague "someone" would take care of things. This wish-fulfillment led to a selective inattention to the events of the developing crisis or to the minimization of their importance.

Apparently, most people do not learn from the experiences of others. The turmoil in Little Rock and the effects of school closings in Virginia had little impact on the citizens of New Orleans. Apparently, it was necessary for them to have the problem right at their doorsteps before they could recognize the danger.

We can safely assume that there were many who felt involved but could not bring themselves to join others in organized efforts, again, on either side of the issue. Even most of those who were not apathetic or indifferent failed to act. There are risks involved in action—notably those of economic or social reprisals; but, for many, it is simply that there is no customary way to translate beliefs into action; there is no tradition of citizen participation in social issues outside the trip to the ballot box. Even if inclined to act, many of these people feel isolated, unaware of the fact that many others share their views—and they hesitate to expose themselves.

Nearly everyone expressing public views on a controversial issue needs group support. The political leaders in this crisis did not lead—they were afraid to step out ahead of the populace. Civic leaders who might have taken over the leadership felt alone and isolated, and it was many months before they were able to band together and express their views publicly.

Those taking a stand, whether on the basis of belief or because they were forced to by circumstances, found themselves becoming firmer and firmer in their convictions with the passage of time. This is partly due to the need to defend oneself against the attacks of opponents and partly to the need to bring one's attitudes in line with one's changed behavior or position on the issue.

This general rule did not apply if the pressure was extreme. Families forced to leave the city and some of the parents refusing to break the boycott did so because of fear of further reprisals.

Strong emotion tends to make people say and do foolish things—e.g., Leander Perez's statement on a national TV program that the brains of Negroes were markedly different (hence, inferior) to those of whites, a contention for which there is not a shred of scientific proof.

Irrational prejudices towards Negroes are based primarily on the fear of sexual attack and of social transgressions. The bases for these fears are complex (for a fuller discussion, see Report No. 37, "The Psychiatric Aspects of School Desegregation," Group for the Advancement of Psychiatry, 1956). An analysis of the content of speeches by members of the White Citizens Council demonstrates that this is the major weapon for stirring up fears and hatreds of whites towards Negroes. Not all prejudices are irrational. Some are rational, if selfish. Prejudice also has different implications for different people. With many, it is a learned but essentially imitiative attitude in which the child identifies with and mimics the attitudes of his parents and teachers; it is not a deeply integrated part of the personality. With others, however, it serves as an outlet for deeply-felt feelings of inferiority and aggression towards a suitable scapegoat. For these people, prejudice is a necessary part of their personalities, a defense without which they would stand naked and afraid. By analogy, prejudice in the former group is like a glove which can be peeled off; while in the latter group, prejudice is like the skin itself, which, if stripped off, leaves them dangerously exposed.

As has been noted often before, prejudicial attitudes in the latter group tend to spread from one to other minority groups. The White Citizens Council did not confine its attacks to Negroes but soon centered much of its venom on SOS and similar white groups, which they vilified and whose members they described as being, simultaneously, Communists, Jews, and Catholics.

One of the important points is that the attitude towards school desegregation often depended on whether the person thought of himself first as an American or first as a Southerner or Louisianian. Those with wider loyalties tended to be desegregationists or at least neutral, while those with intense regional or local loyalties more often tended to be segregationists, usually buttressing their arguments with the issue of States' rights versus the power of the Federal Government. In the latter instance, the Federal Government was seen as the enemy imposing its will on the helpless, defenseless, and misunderstood State.

A great deal of confusion has occurred because of the failure to distinguish between desegregation and integration. The two words are generally used interchangeably. Actually, desegregation is an objective process, in which legal barriers between the two races are removed, while integration is a subjective, complex, psychosocial process in which the emotional barriers are entirely (or almost entirely) removed. Obviously, integration will take many generations; desegregation can occur here and now. When the two words are used to mean the same thing, it is easy to stir up fears that a process which actually can occur only very slowly and gradually is happening overnight. Desegregation and integration are essentially separate and different processes. Indeed, it has been shown in Nashville and elsewhere that desegregation can interfere with and slow down integration, at least temporarily (for a fuller discussion of these points, see *Southern School News,* March 1961).

It is by now quite clear that the majority of New Orleans citizens abhor violence. Above all else, they wish to obey the law. Changing customs and traditions in order to increase the civil rights of all "freeborn Americans" is difficult, but it can be accomplished because of the overriding wish of most of our citizens to live peaceful lives within the limits and under the protection of the law—and, in this case, this means the Constitutional law of the United States.

6. Legal Aspects

Introduction

Louisiana has escaped violence, bombings, troops, and school closings. In spite of this, there has been more "massive resistance" to desegregation than in any other State so far. The device used has been "massive legislation", called by the Attorney General the "legislate and litigate" technique. As fast as the Federal court has enjoined enforcement of acts and resolutions, the State legislature has passed new ones. It is estimated that over 700 State and city officials have been enjoined. The legislature, having ended its Fifth Extraordinary Session, went into regular session still stubbornly maintaining its position that it had taken over the schools of Orleans Parish (county). The entire legislature has been enjoined from interfering with the operation of New Orleans schools, but the legislative process itself cannot be enjoined, and each new act or resolution differs in some way from the previous ones invalidated. The basic presupposition common to all the recent legislative action had been that the legislature has assumed control of the schools, has addressed the school board out of office and that the elected board has "ceased legally to exist." While the legislature reaffirmed its stand of interposition by resolution after the Federal court had declared it ineffective, the State officials have, for the most part, recognized the injunctions to the extent necessary to stay out of jail.

The aim of the legislature apparently has been to replace the present board with a school board willing to close, rather than to desegregate. Some have argued that a closing should not have been averted and that defiance by the State would have ceased when the schools reopened, as happened in Virginia. Others contend that the legislature would have interposed in any event and attempted the indirect cutoff of funds, even after a direct closing had failed to be upheld by the courts.

In any event, the slight doubt that the Federal court needed to go as far as it did in maintaining the elected school board in office contributed to the uncertainty of the board's legal position. This uncertainty impaired the credit of the school board, hampered the city's attempts to deal with disturbances, and probably contributed to the school board's reluctance to enjoin third parties from obstructing desegregation (as in *Hoxie*

v. *Brewer*).[1] Whether or not the Supreme Court's final disposition of the case will end the defiance remains to be seen. That Court's invalidating the Interposition Act had no visible effect on the attitude of State officials. Although a "local option" law has now been enacted, the legislators have asserted in debate that it would enable the people of a parish to close public schools but that the State's position would remain unchanged.

The New Orleans legal struggle had several definite stages. There was the period of preliminary defenses, with preliminary injunction entered in 1956. Then came the controversy over the classification laws, not finally settled until August 1960. The judge ordered grade-a-year desegregation to be put into effect in September 1960. The Governor took over the schools and was enjoined; the gubernatorial interposition never amounted to more than an attempt to evade service of process. Then, the legislative interposition was enacted and with it fell all the laws of the First Extraordinary Session that it supported. From that time on, the legal struggle centered around attempts to create a new school board that would close the schools, and finally a referendum law was passed to allow the people to vote to close. In the meantime, desegregation became a fact on November 14, 1960. (The historical sequence of judicial proceedings and legislation is given in the Appendices.)

The "police power" and segregation

Bush v. *Orleans Parish School Board* was filed in 1952 and, by stipulation, was suspended until the United States Supreme Court should have disposed of the segregation cases then on appeal in that Court. After the first decision in the *Brown* case and companion cases, Louisiana amended its constitution to require segregation as an exercise of its police power. After the second *Brown* opinion relating to the method of enforcement of desegregation, the *Bush* case came into court again. It was argued that the *Brown* case did not decide the issue of the right of the State to segregate as an exercise of its police power. This was obviously a spurious defense, but it was the first attempt to evade and delay under the guise of legal legislation.

The 14th amendment is a limitation of all State power, under whatever theory of its exercise. Once the courts have declared State law or policy violative of the 14th amendment, that law or policy is invalid. It cannot be validated by a shift in theory of the power used by the State to exercise it. Admitting that the 10th amendment recognizes residual power in the State not delegated to the Federal Government, that residual power is, nevertheless, also subject to express limitations on State power contained in the Constitution itself.[2] States' rights advocates give the impression by their arguments that State power is unlimited, except insofar as a particular subject was delegated to the Federal Government. The truth is that there are limitations on State power in the body of the Constitution and that these limitations are enforced by the Supreme Court.[3] Moreover, these limitations were not in every instance necessitated by the grant of the same power to the Federal Government. For example, the State cannot coin money because the Federal Government has the money power, but neither can the State impair contract obligations, and this does not correspond to any grant to the Federal Government to supervise contracts or enact general contract law. Likewise, in the matter of schools, a finding that the State cannot segregate does not give the power to the Federal Government generally to operate, supervise and control schools—that power remains in the State but the exercise of that power is now limited by the 14th amendment.

In rationalizing the current defiance of the *Brown* case and Federal court orders, the Louisiana lawyers have revived the old argument of the illegal adoption of the 14th amendment. This argument was not put into the Interposition Act itself but has been widely published by the State Sovereignty Commission in its statements.[4]

This and every other possible defense was raised in the *Brown* case itself. There was no legal justification for the "police power" theory, and its proponents undoubtedly realized that it was at best an attempt to relitigate issues already decided merely for the purpose of delay.

A statutory three-judge court, convened to determine the issue, decided that no serious constitutional question was raised that had not been decided by *Brown*. Accordingly, it returned the case to the district judge, who disposed of this and all other preliminary defenses and thereupon entered the preliminary injunction, with no date set for compliance.[5]

The Court of Appeals affirmed and on the "police power" argument said; ". . . [It] is now perfectly clear that such classification is no longer permissible, whether such classification is sought to be made from sentiment, tradition, caprice, or in exercise of the State's police power."

Legal procedure

The *Segregation* cases[6] were class actions, the purpose of which was to declare the legal principle that separate schools were inherently unequal. The *Bush* suit was also a class action and none of the plaintiffs were seeking assignment to any particular school. Since the State passed a pupil assignment law in 1954, one of the early defenses was that the class device could not be used as a means of enforcing the *Brown* principle. The assignment act had set up an elaborate administrative procedure with ultimate resort to the State courts for relief from objectionable assignments. In this way it was hoped that the class suit to enforce *Brown* had been prevented because each plaintiff would have to exhaust the assignment procedure before claiming that discrimination against him existed.[7]

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The *Bush* case pioneered in cutting straight through this obstacle. Other State laws made it quite evident that no Negro child could obtain relief through the administrative remedies. A court of equity will not require that the plaintiff do a vain thing, and so the rule that Federal courts will not take jurisdiction until plaintiffs have exhausted administrative remedies was not applied. The court took note that the plaintiffs had applied to the local school board and the State board of education, and had received no answer. They had done all that they were required to do. Moreover, the court found that the assignment act itself was invalid since it provided no standards for the assignments, except the standard of race derived from companion laws.

Whether or not the class action is proper after a State has indicated an acceptance of the *Brown* rule remains to be finally settled. Federal courts in other circuits have required that the plaintiffs proceed through the assignment procedure before applying to the Federal court for relief.[8] In any event, it was perfectly proper in *Bush,* for that case was filed in 1952 and the court took jurisdiction. Where the State itself erects "legal" barriers to any and all desegregation, the class suit would seem to be a proper device for invalidating those laws. As long as there is "massive resistance" under State law or policy, it is useless to require that the assignment procedure be followed. The local board can use the assignment act in complying with the *Brown* principle, but it cannot use pupil assignment as a means of forestalling any and all desegregation.

There has been much discussion recently of the exact nature of the legal right involved, and the correlative duty of local school boards. Probably the view that no general reshuffling is required is still the rule. On the other hand, the local board cannot discriminate on the basis of race and some actual desegregation is obviously required or the board risks violating an injunction. It is only necessary here to note that a general injunction was entered in 1956, with no date set for compliance. When the board refused to submit a plan showing a reasonable start toward desegregation, the judge ordered his own plan rather than hold the board members in contempt.[9] The plan provided that any child could attend any formerly all-white or formerly all-Negro school nearest his home, at his option.

After the Governor had been enjoined on August 27, the school board requested and was granted a stay until November 14 to put into effect the pupil assignment law. The delay may have been necessary to avoid an individual assignment of each of 90,000 children in New Orleans schools, or at least of every child entering first grade. Instead, applications for transfer were taken and the placement law applied to the applicants only. There was, however, one white applicant who sought transfer to a formerly all-Negro school. The ground for denial of this transfer was not disclosed. Some recent cases have indicated that the assignment act could not be applied to applicants for transfer only, while the assignment of all others is, in effect, based on race.[10] The *Bush* complainants did not object to this procedure, however.

The 11th amendment and classification of schools

The courts have never satisfactorily resolved the dilemma presented by the 11th amendment and the 14th amendment. The latter applies only to "State action" but a citizen of a State cannot sue the State without its consent. In a suit claiming the protection of the 14th amendment, the complainant must allege that the action of the official is "State action" for the 14th but not "State action" for the 11th. As long as the suit seeks to restrain the enforcement of an unconstitutional statute, the courts ignore the dilemma. In other cases, the courts are uneasy.[11] If negative enforcement is sufficient, there is no problem. The real difficulty comes when the State is compelled to take some affirmative action, before the complainant can have adequate relief. Fourteenth amendment injunctions are nearly always worded negatively. Thus when *James* v. *Almond* [12] decided that closing some schools was illegal evasion, the court noted that it was not compelling the State to take action (reopen the schools), but was merely enjoining the "massive resistance" statutes.

Louisiana sought to use this semantic difficulty by enacting the classification law, requiring that the legislature classify schools. Thus it was argued that the school board could not comply with the injunction until the legislature reclassified some schools as mixed. Since the school board could not comply, the complainants had the wrong party as defendant, and the proper defendant would be the legislature. Then, of course, the defense of the 11th amendment would seem stronger, particularly if the complainants sought to compel the State legislature to reclassify. Later the State sought to remove the board's power to comply and to vest control of the schools in the Governor, who also could not comply until some reclassification by the legislature had been made. Again the 11th amendment defense recurred. When the legislature took over the operation of schools, the point was made again. When the judge ordered a plan to be submitted, it was argued that the State could not be compelled to take affirmative action.

The interpretation of the 11th amendment has been an obstacle to enforcing the 14th. By its terms the 11th amendment states that a nonresident cannot sue a State; by "judicial legislation" it has been interpreted to apply to a resident of a State, as well (*Hans* v. *Louisiana,* 134 U.S. 1, 1890). It is notable that the South has not objected to "judicial legislation" in interpreting the 11th amendment, while it has loudly objected to "judicial legislation" with reference to the 14th. In any event the solution seems obvious, and was suggested years ago in a 1937 issue of the Harvard Law Review.[13] The 14th amendment cannot be rendered ineffective by the 11th. To the extent necessary for the enforcement of the 14th in a particular case, it supersedes the 11th. This is the practical result of the various court rulings, but it should be made explicit.

In 1958, the school board moved to vacate the order of injunction on the ground that it had no power to comply. The district judge did not convene the three-judge statutory court. There has been much confusion in desegregation cases as to the necessity of this procedure.[14] Since the statutory court in 1956 had found it unnecessary and remanded to the district judge, that judge could not be censured for failing to convene it in 1958. He merely declared the classification statute another legal artifice for evasion, and unconstitutional.

The statute was purposely worded in an ambiguous fashion, and on appeal the State strongly urged that the Federal court should follow the usual rule of allowing State court interpretation before proceeding further. The act provided that all classifications were "frozen," that a legislative committee should classify all new buildings or reclassify existing schools as white or Negro. A later section reserved to the legislature itself a reclassification from Negro or white to any other classification. Another section required that white teachers teach only white students, and Negro teachers only Negro students. Since it was argued that the legislature could reclassify a school as "mixed," it was claimed that the law was not unconstitutional on its face.[15] The *Brown* case having decided that desegregation might be gradual, it was claimed that the legislature could determine how and when desegregation would start.

The Court of Appeals did not rule directly on the constitutionality of the statute, undoubtedly because of the lack of the three-judge court below. The appellate court did find, however, that the school board remained a proper party defendant, as it had the actual control and operation of the schools.

This decision caused much confusion. It was argued to the District Court judge that he had been reversed. The judge disagreed and proceeded to order the board to submit a plan for desegregation. The Court of Appeals had certainly held that the State statute did not excuse compliance. Nevertheless the State argued the law had not been invalidated, and instituted suit in State court. The State Court of Appeals found the law constitutional and the Attorney General instructed the school board it could not submit a plan for desegregation. After the Federal judge ordered his own grade-a-year plan,[16] the State legislature reenacted the classification act and added the provision that the Governor should supersede the school board in operating the schools. By the terms of the law, confirmed by the Attorney General's statement in August,[17] the "takeover" was automatic when the law passed in July. However, the Governor remained silent until August 17, when he publicly announced he had taken over operation of the school system.

Again, the State filed suit in State court, which enjoined the school board on July 29 from complying with the Federal court order.

The classification laws finally were invalidated by a three-judge court on August 27, 1960, and the Governor was enjoined from interfering with the operation of Orleans Parish schools.

School closing laws—avoidance or evasion?

In the summer of 1960, it was generally felt that a school closing was imminent. On August 16, the Negro complainants filed a supplemental complaint alleging the unconstitutionality of Act 496, the new classification law, which provided that the Governor superseded the school board. The NAACP did not attack any of the closing laws, of which there were three.

The 1958 closing law allowed the Governor to close any school ordered integrated and any other school in the parish that was thereby threatened with violence. It seemed that the Little Rock closing case settled the invalidity of this measure. Even if the Governor closed all the schools of Orleans Parish under this law, such a closing would constitute an evasion of the order, as well as taxpayer-discrimination against Orleans Parish parents.

Act 542 of 1960 provided that the Governor could close any school threatened with violence. If this had been applied to a school that had been ordered to integrate, again, the Arkansas rationale would control. That case found that the police power did not justify a closing. This particular law did not mention "integrated" schools but its intent was obvious, and the court so found.

The really difficult obstacle was Act 495, which authorized the Governor to close all the schools if any one of them was ordered to integrate.

On August 17, 31 white taxpayer parents filed suit against the Governor and attacked not only the classification statute but also all of the closing laws. The complaint prayed that the judge suspend or vacate his order; or, in the alternative, that the State statutes be declared unconstitutional. The complaint also attacked the Louisiana constitutional amendment of 1958 that relieved the State of its duty to furnish public schools.

Obviously, this complaint was not grounded on taxpayer-discrimination, although the allegation of denial of equal protection was made, as well as a denial of due process of law. If taxpayer-discrimination had been the basis of the suit, it is doubtful that a closing could have been enjoined before it happened, since a nondiscriminatory closing was possible under the statutes. The complainants might have sought to enjoin only a closing that was discriminatory, but that would not have averted any and all school closing. Hence, it was necessary to base the right to relief on broader grounds than the right not to be discriminated against.

Since this case, *Williams* v. *Davis,* and the *Bush* case both sought an injunction against the Governor, the cases were consolidated for hearing. The difficulty with the decision is that it is impossible to discern just what the court decided. Most writers have agreed that the State can avoid desegregation by closing all its schools and abandoning public education.[18] This law allowing the closing of all schools was invalid. Why? Because the legislature had not enacted a law abandoning schools? Because the closing was to be administrative rather than legislative? Because the law was not considered a permanent closing? Because there were tuition grant laws in the statutes so that no abandonment of public education was really contemplated? Was it because the court really thought that even closing of all schools was evasion if done to avoid desegregation? If this was true, why didn't the court invalidate the constitutional amendment as prayed for? If this was the view of the court, why didn't it squarely meet the issue raised by the case and hold that a State cannot close even all its schools? This is the interpretation put on the decision by many lawyers.

So important a holding would seem to have required some discussion on the part of the court. It is certainly in contradiction to the decision in the white taxpayer's suit in Norfolk, in which it was flatly stated that Virginia need not operate public schools, apart from the requirement of its own State constitution. The court used the "intent to evade" the Negroes' rights as a basis for invalidating the laws. The opinion was written for the *Bush* complainants, but the allegations of invalidity were made by the *Williams* complainants. There was no translation of "evasion" into deprivation of rights of the white parents.

It should be noted that haste was essential, since the scheduled opening of schools was near at hand. The case was argued August 26; the opinion was handed down August 27. The injunction did not expressly restrain school closing; it enjoined "interference" with the operation of Orleans Parish schools.

Interposition—gubernatorial and legislative

During the summer months of 1960, it was generally believed that the interposition would be by the Governor. It was argued that Governor Davis would take over the schools and keep them open and segregated; that the sovereign State, through its Governor, would be brought into the picture; that the State could not be sued under the 11th amendment, and that the legislature would decide when and how to integrate the schools. It was generally understood that the method of invoking the interposition would be the Governor's refusal to answer Federal court subpoenas and his refusal to recognize the Federal court's injunction. It was alleged that Governor Faubus had begun an interposition but had finally backed down and answered the service of process.

Governor Davis attempted to evade service, but the Federal court on August 27 held that adequate service had been made under the Federal Rules of Civil Procedure. The Governor did not appear or answer the suit against him, but he certainly did not ignore the injunction. He did not attempt to assert authority over the public schools of Orleans after the August 27 order. He remained completely silent on the school question, in spite of repeated requests for plans, and asserted that his silence was justified because of the Federal order enjoining his interference. By the time the desegregation order took effect on November 14, the legislature had started the legislative interposition.

Interposition has not been very well understood in Louisiana. It has served as a magic word to give segregationists the comforting impression that there is a legal device for avoidance of desegregation. The State Sovereignty Commission issued statements concerning the illegality of the 14th amendment, the application to education of the 10th amendment only (the 14th amendment allegedly having no relevance to education), and finally the validity of interposition to force the Federal Government to back down. There was not a great deal of effort to refute these allegations. The constitutional lawyers of the State knew better but remained silent.

All agree that the notion that a State may veto Federal legislation, or overrule Federal administrative or judicial action is untenable. The Union would be dissolved. The historical attempts at interposition have been adequately treated elsewhere, but a few points concerning the Louisiana Act should be made.

In general, there are three types of interposition. The first is a statement of opinion of the unconstitutionality of some Federal action, without any attempt to implement the statement. Very often, the State legislative resolutions will declare that action null; but, if there is no actual defiance translated into action, the statement remains a political expression. There is no attempt to give it legal effect. Such was the case in the Kentucky and Virginia resolutions and the various Southern Resolutions of Interposition of recent history.

The second type is an attempt to suspend the Federal action until the Federal Constitution can be changed to *revoke* or *modify* the Federal action. Such a case was the Interposition of Georgia in the controversy that led to the 11th amendment.

The third type is the extreme form of interposition—that is, nullification—an outright refusal to recognize Federal law, with action taken pursuant to that defiance. The classic example is, of course, the South Carolina Nullification Act of 1830.

The segregation laws passed at the First Extraordinary Session were openly based on the Interposition Act. The proponents of interposition alleged that Louisiana was not attempting to nullify but only to suspend the *Brown* decision. They urged that this was the second type of interposition listed above. However, as has been seen, the second type of interposition is directed toward suspending compliance pending a popular effort to so amend the Constitution as to make compliance unnecessary. What the Louisiana interpositionists advocated was suspension of compliance until Federal authority secured a constitutional amendment confirming the Court's interpretation of the Constitution in the *Brown* decision. In the one case, the State admits the Federal law is supreme but attempts to change it and to suspend the Federal law while it does so. In the Louisiana case, the State attempts to shift the burden to the Federal Government to validate its action by constitutional amendment. For this reason, this interposition was not the second type. In spite of all allegations to the contrary, it was a form of attempted nullification.[19] Action in defiance was contemplated in the Interposition Act itself—Federal officers were to be arrested for attempting to enforce Federal court orders. Furthermore, the acts pursuant to the interposition contemplated action to defy the *Brown* rule. The statement of nullity was not a mere opinion. It was to be acted upon and now has been acted upon.

For this reason, it was unfortunate that the court opinion of November 21 invalidating the Interposition Act classed it with the Kentucky and Virginia resolutions as mere political statement.[20] It is true that the nullification can have no legal standing and has been ineffective, for the most part, but not entirely. After the November 21 court decision declared interposition invalid, the legislature reaffirmed interposition and has steadfastly refused to recognize the elected school board. As this is being written, it is still the view of Louisiana that its legislature is operating the Orleans Parish schools.

Enforcement of the desegregation order

As far as can be determined, the local district judge was the first to order execution of his own plan,[21] and it was alleged that the Federal court did not have this power.[22]

The answer seems provided in the second *Brown* opinion. Although local officials were to take the responsibility to work out a plan to cause as little confusion as possible, a "prompt and reasonable start" was to be required. If it is remembered that in theory the State cannot deny any child the right to attend any school in any grade solely on the basis of race, it can hardly be contended that the judge did not have the authority to order desegregation to begin with the first grade. Gradual desegregation was a concession to the South. To argue that the granting of the concession was a holding with which the South could not be compelled to comply was certainly unrealistic. The enforcement of the injunction was not to depend on a willingness to comply.

After the date had been set for a "prompt and reasonable start," the State legislature in its regular session sought to vest the control of the schools in the Governor. This action was prevented just a few days before schools opened. The desegregation order was stayed until November 14, and on November 8 the legislature passed the comprehensive package of the First Extraordinary Session.

Basically, the package effectuating the Interposition sought to vest the control of the schools in the legislature itself. A substantive law, Act 14, in effect reenacted the requirement of segregation. The school board was required to close the schools rather than to desegregate. If the board operated schools contrary to the requirements of State law, this constituted malfeasance in office and grounds for removal. With the recalcitrant school board removed, the legislature could defy as long as possible and then close Orleans parish schools rather than desegregate.

The legislature took over the operation of the schools and appointed an eight-man committee to manage them. When this committee was restrained, the legislature took over as a committee of the whole the day before desegregation was to begin. On Sunday night the entire legislature was restrained from interfering,[23] and the school board announced that the schools would be open. The legislature then proceeded to address four of the five school board members out of office on the day that desegregation was beginning.[24] The act which had provided for the removal and set forth the grounds therefore had been restrained.

After the hearing on the first session package, and even after the decision invalidating those laws,[25] the legislature refused to recognize the Orleans parish board and pursued its attempts to replace it with a new board.[26] In the second session, Act 2 created a new board and authorized the Governor to appoint the members. The Governor did not do so because he was immediately restrained by both Federal and State courts. On December 15, 1960, the State Supreme Court found the law constitutional. The same day the legislature passed House Bill 9 creating a new board and naming the members itself. Thereafter Act 2 was invalidated and the Governor vetoed House Bill 9. He stated that House Bill 9 was similar to Act 2 which had been invalidated by the Federal courts. Both school boards under Act 2 and House Bill 9 would have had only financial powers, with major control retained by the legislature. Therefore, Act 4 was passed in the third session, creating a new school board with the same powers as the duly elected board. This Act was also restrained and the members named by the legislature were enjoined on March 3, 1961.

Several attempts were made to dismiss the Orleans Parish school superintendent and the school board's attorney. At a hearing on December 16, the Attorney General attempted to dismiss the attorney pursuant to a repeal of the law allowing the Orleans parish board to select its own attorney. Every other parish board in the State is represented by the Attorney General. The court noted that the Attorney General attempted to withdraw the school board's cross-claim and therefore restrained and later enjoined the dismissal of the board's attorney.

All through the struggle, the State argued that these were matters of internal affairs of the State, and that the Federal court's authority was limited to enforcing its order against the successors to the school board. The three-judge court maintained that it was empowered to frustrate obvious attempts at further evasion. That this was a harmless change in personnel was hardly borne out by the fact that it was effected in special sessions, by legislation labeled "emergency," and by the fact of the State court's bypassing its own procedural rules to determine the constitutionality of an act creating a new board.

The underlying cause for the attempts to replace the board must have been an intention to close Orleans parish schools. None of the court opinions since August mentioned closing; nor did the State in its arguments mention this. Yet it seems that the State realized that a mere change in personnel would not avoid desegregation and that the "successors in office" were already enjoined. Louisiana had apparently learned from the Arkansas and Virginia cases that the State could not close the schools of one parish and allow others to remain open because they are segregated. It seems obvious that the State was attempting to get a "local option" closing or a closing by local authorities, such as had occurred in Prince Edward County, Virginia. The obstacle, of course, was that the elected Orleans board preferred desegregated schools to closed schools, and the attempts at changing the membership of that board were obviously designed to constitute a board that would be willing to close. Of course the Federal court realized this underlying purpose and it seems that it might have taken judicial notice of the various closing laws, one of which required a local board to close rather than desegregate. Again the court assumed, without discussion of the right to close, that there was nothing a new board might do to avoid desegregation. The court might have met the issue by squarely stating that, apart from the validity or invalidity of a "local option" closing, the State may not maneuver the membership of the board to accomplish that end, and that it would constitute in effect a closing of Orleans parish schools by the State government.

Meanwhile the State had put all persons on notice that they should not deal with the elected Orleans board. The eight-man committee of the legislature assumed control of the finances of the board until it was restrained. Even after the restraining order, banks would not honor checks drawn by the school board. The City held in escrow the funds due to the board from *ad valorem* tax collections. The board was unable to procure its usual annual loan and could not pay the teachers. The legislature paid the teachers with funds channeled through the special bank account originally set up by the committee of eight. As we have seen, the teachers at the integrated schools and the administrative staff were not paid, however. The State persevered in its view that the laws of the first session were valid. The legislature had reaffirmed the Interposition, by resolution, the day after the court invalidated that act.

On December 21, a Federal court decision gave some relief. The City was required to remit the tax collections daily as usual. The banks were enjoined from refusing to honor checks drawn by the board on its own funds. Resolutions relating to the funds and credit of the board were restrained. A date for a contempt hearing was set, in a proceeding against State officials for refusing to pay teachers of integrated schools and the administrative staff.

Since that decision the State has continued to pay amounts due to Orleans parish into the special legislative bank account and has drawn against this account in paying the teachers and staff. The board has not yet been able to procure its loan, and the spring of 1961 found the City attempting to obtain State authority to borrow so that funds could be advanced to the board until June when property taxes were due. It believed that the State might be willing to grant this authority, since this arrangement would not require direct recognition of the legal status of the board. In the meantime, citizens have been paying taxes in advance and this has aided the board in meeting pressing obligations.

Contempt proceedings were begun against the State Superintendent of Education for calling the school holiday after having been enjoined from interference. The legislature affirmed his action by also declaring the holiday. A new proceeding was instituted against the same official, the Lieutenant-Governor, and the Speaker of the House for their refusal to pay the teachers in the integrated schools and the administrative staff. These officials had been authorized by the legislature to sign the checks. After several continuances, the contempt was expanded with reference to the State superintendent who had refused to certify Orleans teachers, and had withheld payment on deduction accounts in cases that required payment in the name of the Orleans board. A week before this contempt hearing, the State made arrangements to provide salaries for the unpaid teachers and staff. Money was advanced to the City for reimbursement of homestead exemptions and the board's proportionate share was made available for payment to those that the State would not pay directly. In addition funds were advanced to the parish through the special bank account covering amounts to become due from the State for the next several months, and out of this money, the teachers at the integrated schools were paid. Therefore, the contempt proceeding against the Lieutenant-Governor and the Speaker was dismissed as moot. A hearing was held with respect to the State superintendent, at which hearing he contended that he was bound by State law not to recognize the Orleans board. He agreed not to "interfere" with the Orleans board and agreed to comply with the general injunction. He did not state that he would affirmatively recognize the legal status of the board, but the Federal court continued the hearing until March 24 to give him an opportunity to perform the duties that were the subject of the contempt proceeding.

Another issue that arose in the case was that of the authority of the United States to assist in the enforcement of court orders. The United States began a separate suit against the State concerning the Interposition Act. That act had threatened arrest of Federal marshals, judges, and other officials. The defense was raised that the Constitution provides that the jurisdiction of the Supreme Court in controversies between the Federal Government and a State shall be exclusive. This defense was overruled.

In addition to the separate suit, the United States petitioned for the right to enter the *Bush* case as *amicus curiae*. An order so allowing was entered November 30. Thereafter the United States sought an injunction against the act creating a new school board and a few days thereafter the *Bush* complainants sought the same relief. Later, on petition of the *amicus*, another school board act and several resolutions were enjoined. This time the *Bush* complainants did not join in. At the hearing it was urged that an *amicus* could not seek affirmative relief but could only advise and assist the court in filing briefs and in argument. Also, the legislative history of the Civil Rights Act of 1957 was argued as indicative of Congressional refusal to give this power to the Federal Government.[27] In its decision, the Court overruled all objections and established, for the first time apparently, the right of the Justice Department to assist in enforcing desegregation orders. Although this was done at Little Rock, the court in that case noted that the Negro complainants had joined in seeking the relief prayed for.[28]

The school board was also active in protecting its status. In the first few days of desegregation, when State resolutions concerning finances were passed, the school board sought alternative relief—that is, either a stay of the order or an injunction against matters affecting its financial status. On November 17 the school board asked the Federal court to stay its order until the Interposition controversy had finally been dealt with by the Federal courts, and that until that time it be allowed to operate segregated schools. The State opposed this petition on the ground that even if the order were stayed, that particular board had no authority to operate only segregated schools. After this request had been denied, the school board dropped the alternative pleading and sought to protect its authority to operate the schools free from the State's interference. Since the December 21 decision, the United States has carried the burden of seeking contempt orders and injunctions against new acts and resolutions, even where the school board was affected. Having the Federal Government itself in the suit has undoubtedly lent support to the Federal judges.

In its fifth session, the legislature passed an act allowing a local board to close its schools if the people vote for closing. The board may call the election or it may be called on petition of 10 percent of the voters. The State administration has contended that this was not a compromise, and that token desegregation was not to be allowed by State law. Since the Act passed, the State superintendent told the Federal court he was bound by State law not to recognize the Orleans board. So far there is no indication that an election will be called for Orleans, but one has been called for St. Helena parish. That parish is under injunction with no date yet set for compliance. If the elected board in Orleans can meet its financial obligations until the end of the year, it is felt by some that the State will abandon the controversy insofar as it affects Orleans parish and concentrate on St. Helena. It is hoped that the Supreme Court's decision of the pending appeals may have some effect, at least on the willingness of the banks to lend. If the State is still unwilling to authorize the loan, presumably this might be dealt with by contempt proceeding.[29] A main concern is that the State's position may impair the credit of the board even after the Supreme Court decides the case. One bank has already suffered a reprisal because it honored school board checks after the State's resolution had been restrained by the court.

The other main problem has been the white boycott of the desegregated schools. This could not have been successful without the assistance of the State. The legislature by resolution urged the parents to keep their children out of the schools and this resolution was published in the New Orleans newspapers. The authorities of the adjoining parish took the children into their school system. An educational cooperative was formed, leased a building and renovated it, but the adjoining parish school board took over the lease, and furnished teachers and lunch facilities. The bus transportation was paid for by the cooperative in the first few weeks; it is not known if there has been any change in this arrangement. There have been no known leaders of the boycott. The campaign has been waged silently and anonymously since the women hecklers went home. Federal marshals still perform daily escort duty for the few white children, as well as for the Negro children, who attend William Frantz School. The legislature has passed laws aimed at discouraging persons from assisting or persuading the white parents to return their children to the schools. The same laws are possibly effective against the parents who wish to return their children, since they might conceivably be charged with accepting bribes for doing so.

Affecting the Orleans parish situation, is the position of St. Helena and East Baton Rouge parishes. An injunction has recently been entered in these cases, as well as cases involving the trade schools of the

State. Those cases presented no new legal issues. It should be noted that two laws relating to the closing of trade schools were not invalidated in the *Bush* and *Williams* cases, and as yet they have not been put in issue in the trade school cases themselves. The St. Helena election has been called for April.* The NAACP has pubicly announced that it would attack the new "option" closing law before the election is held. The legislature recently added members to the East Baton Rouge school board, presumably to prompt that board to call an election.

Conclusion

There is a growing recognition that some congressional implementation of the *Brown* principle may be necessary. The experience of Louisiana has confirmed this. If the State persists in its defiance even after a final Supreme Court decision,[30] and even after some State officials may be jailed for contempt, what can the Federal court do? The State officials might be enjoined from operating schools in the other areas so long as the Orleans parish board's credit is not restored by the State. This obviously is not a practical solution.

The contempt power may be effective in dealing with State officials. Usually the acquiescence of the State to desegregation will go a long way to preventing any concerted activity by private citizens to obstruct the court order. Some specific statute should give school board officials the right to proceed as in *Hoxie* v. *Brewer,* should the need arise. Also, the right of the United States to assist in the enforcement of court orders should be made explicit. This is not the same remedy proposed in 1957 which would have allowed the Justice Department to initiate proceedings against private persons obstructing the order. In the New Orleans case, the Justice Department was proceeding against the State officials who were obstructing.

There is also the problem of State reprisal against innocent third parties who rely on the Federal court orders. The Louisiana situation amply demonstrated this problem. When the school board sought to abide by Federal law, it was addressed out of office. When teachers remained on the job in the desegregated schools, they lost their pay. When a bank relied on the Federal court order and honored school board checks, it was removed as fiscal agent for the State. Other reprisals were the threat of investigation of those who testified at the legislature against closing laws, charges of bribery against those who gave moral support to white parents by means of a "carlift," and prosecution charges against police who sought only to control the angry mob in front of the schools.

When the 14th amendment was debated in Congress, the author of the first section of that proposal recalled the nullification controversy in South Carolina. He pointed out that Federal officials had been protected by Federal law in that dispute, but that many innocent third persons suffered reprisals at the hands of the State for attempts to abide by Federal law. The 14th amendment was to have changed that. Congress could and should use its enforcement power of the amendment to relieve this situation. The necessary "State action" has been present in the examples mentioned. The existing civil rights statutes should be clarified to provide some specific ancillary jurisdiction in the Federal courts in these matters. The law surrounding the old civil rights statutes is so complicated and uncertain that revision would be desirable, even if nothing new is to be added to them.

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*The referendum was held on April 22; 1,147 persons voted for school closing, 56 voted against.

NOTES

1. 137 F. Supp. 364 (E.D. Ark. 1956), *Aff'd* 238 F. 2d 91 (8th Cir. 1956). In that case the school board sought injunctions against "private action" which obstructed the efforts to desegregate the schools. The factual situation concerning the interference was remarkably similar to the New Orleans situation. The court struggled with the Federal jurisdiction problem, for at Hoxie there was no pre-existing desegregation order. Where there is such an order, an injunction to prevent interference with compliance is on a more solid jurisdictional ground. Cf. *Kasper* v. *Brittain,* 245 F. 2d 92 (6th Cir. 1957).
2. The statement in *Barbier* v. *Connolly,* 113 U.S. 27 (1885) that the 14th amendment did not affect the State's police power cannot be considered alone. That same opinion went on to note that class legislation that is discriminatory is prohibited by the amendment. The evolution of the 14th amendment has been concerned with sorting particular legal actions as (1) a valid exercise of police power, or (2) a discriminatory, arbitrary or unreasonable exercise of that power. See generally Tussman and ten Broeck, The Equal Protection of the Laws, 37 Calif. L. Rev. 341 (1949). For an example of limitation on police power in the main body of the Constitution, see note 3, *infra.*
3. The Supreme Court was given jurisdiction to pass on the constitutionality of State laws by the very first Congress of the United States. The Court exercised this power as early as 1810. The *ex post facto* prohibition prevents a State from passing a retroactive criminal law, yet the area of criminal law is the supreme example of police power.
4. See Suthon, the Dubious Origin of the 14th amendment, 28 Tulane L. Rev. 22 (1953). In a statement to the press in November, 1960, Mr. Suthon, a prominent member of the New Orleans bar, repeated his view. It has been asserted also by the State Sover-

eignty Commission in its statements. See also U.S. News & World Report, July 20, 1956, pp. 54–57.

5. In this opinion Federal Judge J. Skelly Wright made the following frequently quoted statement: ". . . The magnitude of the problem may not nullify the principle. And that principle is that we are, all of us, freeborn Americans, with a right to make our way, unfettered by sanctions imposed by man because of the work of God."
6. There were five cases disposed of at the same time. Four were State cases, and the decision is usually referred to under the name of *Brown* v. *Board of Education of Topeka.* The District of Columbia case was the fifth and was titled *Bolling* v. *Sharpe;* a separate opinion was written for this case since it involved the 5th amendment rather than the 14th. Often the cases are referred to as the *Segregation* Cases or the *School Segregation* Cases.
7. The difficulties anticipated with particular reference to this problem were discussed in 104 U. Pa. L. Rev. 974 (1956).
8. *E.g., Carson* v. *Warlick,* 238 F. 2d 724 (4th Cir. 1956), *cert. den.* 353 U.S. 910 (1957); *Dove* v. *Parham,* 271 F. 2d 132 (8th Cir. 1959), noted 46 Va. L. Rev. 337 (1960).
9. See note 21, *infra.*
10. E.g., *Norwood* v. *Tucker,* 287 F. 2d 798 (8th Cir. March 2, 1961); see District Court order in School Board of *Norfolk* v. *Beckett,* 5 Race Rel. Rep. 411 (E.D. Va. 1959). For a good discussion of the various assignment plans, see Foster, *1960: Turning Point for Desegregation?* Saturday Review, Dec. 17, 1960.
11. E.g., *Georgia R.R. & Banking Co.* v. *Redwine,* 342 U.S. 299 (1952). See also Forrester, Cases on Constitutional Law, p. 602 (1959), and dissenting opinion in *Ex Parte Young,* 209 U.S. 123 (1908).
12. 170 F. Supp. 331 (E.D. Va. 1959), *app. dismissed,* 359 U.S. 1006 (1959).
13. "This dilemma might have been avoided by a ruling in *Ex Parte Young* that the 14th amendment had the effect of overruling the 11th, insofar as was necessary for that decision." Note, Sovereign Immunity in Suits to Enjoin the Enforcement of Unconstitutional Legislation, 50 Harv. L. Rev. 956, 961 (1937).
14. See 1 Race Rel. Rep. 811 (1956).
15. Virginia had tried a similar device by setting up a State Pupil Placement Board that must approve every assignment or transfer that would desegregate a particular school. This was held unconstitutional insofar as it attempted to prevent local boards from desegregating, but it is still used as an administrative device to control desegregation.
16. The plan does not actually provide in express terms for grade-a-year desegregation. It mentions only first grade; however, it seems

obvious that if each year the entering first grade must be desegregated and transfers on the basis of race are not allowed, the grade-a-year plan results. From the judge's statements to the board, it seems clear that this was the intended result. Since other grades are not mentioned, the plan can be accelerated easily without the judge's being subject to the charge that he is changing his order. The plan reads as follows—

> "It is ordered that, beginning with the opening of school in September, 1960, all public schools in the city of New Orleans shall be desegregated in accordance with the following plan:
>
> "A. All children entering the first grade may attend either the formerly all-white public school nearest their homes, or the formerly all-Negro public school nearest their homes, at their option.
>
> "B. Children may be transferred from one school to another provided such transfers are not based on consideration of race."

17. See New Orleans *Times-Picayune,* August 23, 1960. Previously the Attorney General had written the school board that the Governor would take over September 6, 1960. *Times-Picayune,* August 4, 1960.

18. Blaustein and Ferguson, Desegregation and the Law, p. 259 (1957); McKay, "With All Deliberate Speed," 31 N.Y.U.L. Rev. 991, 1043 (1956); Note, 72 Harv. L. Rev. 1567 (1959). The statement in the *Brown* case itself seems to indicate that the constitutional right to be protected is the right to be free from discrimination. "Such an *opportunity, where the State has undertaken to provide it,* is a right which must be made available to all on equal terms." This language seems to confirm the view that the State is not required to furnish public schools, but that if it does so provide them, it must provide them on equal (nonsegregated) terms.

    The question of aiding education with tuition grants to the child is theoretically a separate issue from the right to close schools. It is felt by most writers that closing *plus* supporting segregated private schools, would constitute evasion, not legal avoidance. One Federal judge has already so announced. *Allen* v. *Charlottesville School Board,* 27 U.S.L. Week 2173 (1958). See also Raynard, Review of Legislation, 19 La. L. Rev. 155 (1958).

    It is alleged that the position of the NAACP chief counsel is that a State may not even close its schools. See 15 Md. L. Rev. 221, 232 (1955). The NAACP has taken this position in recreational facility cases and has lost if the closing was permanent. E.g., *Tonkins* v. *City of Greensboro,* 162 F. Supp. 549 (M.D.N.C. 1958), *aff'd* 276 F. 2d 890 (4th Cir. 1959).

19. A portion of the opinion recognized that this interposition claimed too much. Madison's view that temporary nullification was equally absurd as outright nullification was quoted.

20. The opinion contains an excellent discussion of interposition and includes many historical materials. It declares that interposition amounts to illegal defiance or mere political polemic. Then the opinion seems to class this interposition on the side of mere political opinion, with the various interposition resolutions of the other Southern States. The Supreme Court, invalidating the Interposition Act, chose to emphasize the stronger aspect, and quoted: "The conclusion is clear that interposition is not a *constitutional* doctrine. If taken seriously, it is illegal defiance of constitutional authority."

To the traditional contention of the interpositionists that a State can determine if the compact has been breached or broken, there is a simple answer without even denying the "compact theory." Even assuming the formation of the Federal Government by contract or compact, that contract contained an "arbitration clause," and named the Supreme Court as arbitrator. That this was intended by the judiciary article of the Constitution is confirmed by the fact that the first Congress provided the machinery for the Supreme Court's jurisdiction to pass on the validity of State laws, tested by the supreme law of the Constitution.

21. The Houston plan was ordered August 4, 1960, after Judge Wright had ordered the New Orleans plan, although the Houston plan took effect first. In several cases the judge suggested a plan in cases where the school board was cooperating and the State was not resisting. *E.g. Dunn* v. *Bd. of Ed. of Greenbrier County,* 1 Race Rel. Rep. 319 (1956); *Taylor* v. *Bd. of Ed. of Raleigh,* 1 Race Rel. Rep. 321 (1956); *Shedd* v. *Bd. of Ed. Logan County,* 1 Race Rel. Rep. 521 (SDW Va. 1956).

In Charlottesville, Virginia, Judge Paul assigned particular pupils to particular schools after the board refused to submit a plan, but he did not order a general plan of his own. *Allen* v. *Charlottesville School Board,* D.C. W.D. Va., Sept. 13, 1958 (3 Race Rel. Rep. 937).

In Dallas in 1957 the district judge set a date for desegregation without any plan or suggestions from the board for a plan. The Court of Appeals noted that the judge had, in effect, ordered desegregation *en masse* and reversed the order. *Rippy* v. *Borders,* 250 F. 2d 690 (5th Cir. 1957).

22. Compare 71 Harv. L. Rev. 486, 492 (1958).

23. In the decision of November 30, the court rejected the argument that the legislators had "legislative immunity" from suit. On the question of enjoining a State legislature, the decision made it clear that their actions as administrators were being enjoined. Since they were attempting to execute their own laws, their administrative actions were subject to injunction in the same way as those of any other administrators of the public schools.

24. Also State court suits were begun, one of which restrained disposal of funds and the other restrained the exercise of the functions of the office of school board members. These cases were immediately removed to Federal court.

25. Acts 10–27, excluding Act 15, were invalidated in addition to the Interposition Act. (Act 2.) Act 15 referred to counsel for the Sovereignty Commission. Acts 28 and 29 related to trade schools.

26. How can the board be defunct or have "ceased legally to exist" when one member was left in office?

27. That proposal sought to give the United States Attorney General the power to enforce the old civil conspiracy statute against private citizens. The U.S. Attorney argued that that proposal was a question of initiating proceedings and in the instant case the question was the fight to assist in the enforcement of a Federal court order. Moreover, this enforcement was sought against State officials, and not against "private action" interference.

28. *Faubus* v. *United States,* 254 F. 2d 797 (8th Cir., 1958), *cert. den.* 358 U.S. 829 (1958). See also, *Kasper* v. *Brittain,* 245 F. 2d. 97 (6th Cir., 1957).

29. A petition directed against the State bond and tax board to secure approval of a loan to the school board was filed, but has not been pursued as yet, until approval of current budget can be obtained from the State Superintendent of Education.

30. On March 7, 1961, six members of the eight-man committee originally appointed to operate the schools met and started an investigation into the fiscal policies of the Orleans parish school system. The resolution of the committee referred to the "now defunct school board." This action was restrained by Federal court. On March 20, 1961, the U.S. Supreme Court affirmed the three-judge court decision of August 27, 1960, and November 30, 1960. On March 24, 1961, the State Superintendent of Education failed to appear at the contempt hearing because he was hospitalized. The court warned other employees of the State Board of Education that they must comply with the injunction.

    In later developments outside New Orleans the NAACP has contested the "local option" law and sought to enjoin the election on school closing in St. Helena parish. The U.S. has entered the suits involving St. Helena and East Baton Rouge and the Louisiana Trade Schools. This marks the first time the Department of Justice has entered a suit in a community where no local interference had yet arisen.

7. Conclusions and Recommendations

Specific recommendations as to judicial, legislative, or administrative measures are difficult for us to make because of the lack of information as to what recommendations may be practical, feasible, and capable of realization at the Federal level. The Subcommittee on Education of the Louisiana State Advisory Committee can make certain general recommendations which might help; but the knowledge as to which of these measures stand a chance of being favorably considered is possessed only by those familiar with the complicated situation in the three branches of our Federal Government, as well as with the limitations imposed by the Supreme Court on congressional enforcement of Section 5 of the 14th amendment. Nevertheless, we would like to set forth our views about possible ways of reaching certain goals.

GOALS

1. *Clarification of civil rights statutes.*—Because of the interpretation of the 14th amendment itself, the existing congressional statutes since the Civil War dealing with civil rights need clarification. All are vague and subject to differing interpretations. Another point of confusion is the place of the United States in court action. It has been argued that the Federal Government has inherent power to enforce civil rights statutes. Is it permissible for the United States Attorney to seek injunctions when the plaintiff has not, or is the Federal Government limited to assisting after an order or injunction has been entered, so as to maintain the court's integrity? The power to initiate action might be tested in the courts, despite the fact that Congress has refused to authorize this specifically.

In any case, the existing confusion over civil rights statutes and their interpretation calls for further study for the purpose of drafting more specific legislation, even if no changes in present court interpretation are effected.

One point needs particular emphasis. Separate specific statutes ought to be enacted aimed at making compliance with Federal law a right of national citizenship, so that enforcement of that right need not be limited to enforcement against State action as distinguished from private action.

2. *Protecting the school boards' capacity to act.*—In view of the fact that the State of Louisiana, by a variety of ingenious methods, has attempted to prevent the Orleans Parish School Board from carrying out its duties, efforts should be made to insure that the school board can continue to function. The chief problem in this area will be to find ways in which the school board can be assured that its funds will not be cut off. If the State cannot be prevented from cutting off funds or impairing the credit of a school board in the process of desegregating the schools in its district, money should be made available from other sources—such as the Federal Government—to permit the school board to carry on. We assume that this will mean new legislation, either in the form of Federal loans to local school boards in need, or Federal insurance of loans to school boards in the process of desegregating, perhaps patterned on the housing loan insurance that is made available by the Federal Housing Administration.

3. *Protection of innocent parties.*—One of the crying needs is to prevent damage to innocent third parties. Examples are: Can the teachers in desegregated schools whose pay has been cut off seek relief in Federal instead of State courts? Can white parents who wish to take their children to desegregated schools be protected from intimidation and reprisal, either through judicial or legislative acts? Can teachers who wish to teach in desegregated schools be protected from intimidation? (Many—if not most—of these problems would be alleviated by the legislation suggested under point 1.)

4. *Other possible legislative action.*—Congressional approval of the principle of the *Brown* case would go a long way to mold public opinion in the South in favor of the Supreme Court desegregation decision. This should be done in such a way as to make it clear that the Supreme Court's decision was and remains a part of the "law of the land" regardless of congressional approval.

If the courts find that the United States does not have inherent power to initiate segregation proceedings, a further attempt to pass legislation giving the Attorney General this power ought to be made. At this time, an investigation should be made of the possibility of Congress giving authority to the Attorney General to institute a suit against an entire State that continues to interpose its authority in defiance of the *Brown* principle.

5. *Administrative measures.*—The Subcommittee on Education feels that a study commission made up of a group of experts from some of the behavioral sciences should be established to make recommendations

to the Civil Rights Commission and/or to the President with respect to the various types of plans of desegregation and their possible applicability to certain localities. Many errors are made in instituting plans; for example, the Orleans Parish School Board desegregated schools in an area of the city that was most likely to produce a violent reaction and a boycott. This could have been avoided if there had been consultation between the local school board and experts whose views could have been based on a study of the situation.

There are a number of ways in which this can be done. A study commission could be established within the Civil Rights Commission itself or as a subcommittee of the National Science Foundation. In any case, the commission should be composed of scientists representing both races and at least sociology, psychology, and psychiatry, as well as education. A possible committee could consist of two sociologists, two psychiatrists, two psychologists, and two educators, four from the North and four from the South.

On the local level, we recommend that the State Advisory Committee itself or its Subcommittee on Education be so constituted as to serve as a study group, consulting with and making recommendations about desegregation plans to the local school boards and other public officials.

6. *The future.*—The overriding question is whether judicial enforcement will prove adequate. If it does not, what kinds of legislative or administrative actions will be necessary to supplement judicial enforcement? In the first place, Congress could pass a substantive law stating the principle on which the *Brown* decision was based and making it mandatory for school board and State officials to proceed with school desegregation. Violation of this act would subject the individual official to criminal action. If no school mixing occurred in a given school district, it would be presumptive evidence of discrimination and violation of the law by local and/or State officials. This would be akin to the presumptive evidence of disenfranchisement of Negroes in those parishes or counties in which no Negroes are registered. We would not, at this time, recommend such a law, even if there were a remote chance of Congressional and judicial approval, because judicial enforcement and administrative and lesser legislative measures have not been adequately tested over a sufficient period of time.

In the second place, a Federal agency might be established, or some existing Federal agency might be given power of enforcement, which the Civil Rights Commission does not now possess. Again, this type of administrative action ought to be recommended only if it is certain that judicial enforcement is inadequate.

Appendix 1. Judicial Summary

September 4, 1952: *Bush* v. *Orleans Parish School Board* filed seeking desegregation.

May 17, 1954: *Brown* v. *Board of Education* invalidated "separate but equal." 347 U.S. 483.

Summer-Fall 1954: Statutes and constitutional amendment passed in Louisiana requiring segregation in exercise of the State's police power.

May 31, 1955: Second *Brown* case relating to method of enforcement. 349 U.S. 294.

February 15, 1956: Three-judge court found constitutional amendment and statutes presented no new Federal constitutional question and remanded to District judge for decision. 138 F. Supp. 336.

February 15, 1956: District judge found constitutional amendment and statutes invalid, rejected other defenses and entered preliminary injunction. 138 F. Supp. 337.

May 28, 1956: Supreme Court denied review of three-judge court's remand. 351 U.S. 948.

March 1, 1957: Court of Appeals affirmed decision and preliminary injunction. 242 F. 2d 156.

June 17, 1957: Supreme Court denied *certiorari.* 354 U.S. 921.
Motion of School Board to dismiss for plaintiff's failure to file bond denied by District court.

February 15, 1958: Court of Appeals affirms district court. 252 F. 2d 253 Supreme Court later also affirms May 26, 1958. 356 U.S. 969.

April 16, 1958: School board files motion to vacate injunction order on ground that it has no power under State law to comply by reason of the classification of schools statute.

July 1, 1958: District court denies school board's motion and finds classification statute unconstitutional. Permanent injunction entered with no date set for compliance. 163 F. Supp. 701.

June 9, 1959: Court of Appeals affirms denial of motion on ground that school board is and remains proper party defendant. Immaterial whether classification law is constitutional or unconstitutional.

July 15, 1959: Petition for rehearing denied. 268 F. 2d 78.

July 15, 1959: District court orders school board to submit plan by March 1, 1960.

October 1, 1959: Time for plan extended to May 16, 1960. Civil District Court for Orleans Parish (State court) finds classification law valid. Interprets to allow legislature to classify schools as "mixed."

February 18, 1960: Louisiana Supreme Court decides it has no jurisdiction and transfers to Court of Appeals for Orleans. 118 So. 2d 127.

March 14, 1960: Orleans Appellate Court affirms lower State court. 118 So. 2d 471.

May 16, 1960: On refusal of school board to submit plan, district judge enters orders for desegregation of first grade beginning September 1960.

June 2, 1960: Court of Appeals denies stay. Dissenting judge questions procedure.

July 19, 1960: Justice Black denies stay of order.

July 25, 1960: State district court denies temporary restraining order against school board. *Louisiana* v. *Orleans Parish School Board,* No. 382–646, Div. A. Docket 5.

July 28, 1960: Bush complainants file motion in Federal District Court to restrain Attorney General from proceeding in State court.

July 29, 1960: State court enters preliminary injunction against school board, finding 1960 reenactment of classification law constitutional.

August 16, 1960: On petition of *Bush* complainants, Judge of Court of Appeals orders State Governor and Attorney General made parties defendant to the suit.

August 16, 1960: *Bush* complainants file petition seeking injunction against Governor and attacking classification and right of Governor to take over Orleans schools.

August 17, 1960: *Williams* v. *David,* white parent-taxpayer suit filed.

August 17, 1960: Governor Davis announces take-over of Orleans Parish schools.

August 27, 1960: Decision in *Bush* and *Williams* cases (consolidated for hearing) invalidates segregation package of 1960 legislature including classification law, the Governor's take-over, cut-off of funds law, school closing laws. Also invalidates classification law of 1956, segregation statute of 1954, school closing law of 1958. 187 F. Supp. 42.

August 27, 1960: State Attorney General cited for contempt of court.

August 31, 1960: Order delaying start of desegregation until Nov. 14, 1960.

September 1, 1960: Supreme Court hears arguments on Attorney General's motion for stay, the school board's motion for stay, and the *Bush* complainant's opposition to both motions.

September 2, 1960: Supreme Court affirms District Court's order for stay until Nov. 14, 1960.

October 10, 1960: State Attorney General found guilty of contempt. Sentence suspended.

November 8, 1960: Legislature passes Act of Interposition and new segregation package allowing take-over of schools by legislature. Legislature by resolution appoints 8-man committee to run schools of Orleans parish.

November 10, 1960: United States v. *Louisiana, et al.* filed attacking Interposition Act. Temporary restraining order entered forbidding arrest of Federal officials.

November 10, 1960: On petition in *Williams* case, temporary restraining order entered forbidding enforcement of Interposition Act and most of the new package legislation. The legislative committee temporarily restrained from interfering in the operation of Orleans schools.

November 13, 1960: By legislative resolution, the Legislature takes over operation of schools directly and affirms acts of the 8-man committee. Resolution dismisses school superintendent and school board attorney. Resolution declares November 14 a school holiday to be observed in all parishes.

November 13, 1960: Superintendent of State Board of Education ordered to show cause why he should not be held in contempt for calling school holiday.

November 14, 1960: Desegregation begins and Orleans Civil District Court restrains school board and school superintendent from exercising functions of office.

November 14, 1960: Baton Rouge court restrains school board from disposing of money.

November 14, 1960: Temporary restraining order in *Bush* case on cross complaint of school board forbidding enforcement of resolution addressing school board out of office. State court cases removed to Federal court by Federal judge.

November 17, 1960: School board files petition for right to keep schools open and segregated until Interposition is finally decided by the courts.

November 17, 1960: State court refuses to reactivate case against school board.

November 18, 1960: Hearing in Federal court on petitions in *Bush* and *Williams* cases and *U.S.* v. *Louisiana.* Contempt proceeding continued.

November 18, 1960: Louisiana Supreme Court finds removal of State cases of Federal court "improvidently granted" but affirms refusal to reactivate.

November 19, 1960: Petition of Louisiana to Federal court to remand suits to State court.

November 25, 1960: School board minority member Wagner files suit in State court to obtain names of children in integrated schools.

November 29, 1960: Hearing in *Wagner* v. *Redmond* in State court.

November 30, 1960: Three-judge court announces decision invalidating Interposition Act and new segregation package. Also enjoins enforcement of legislative resolutions appointing committee to run schools, the taking over of the schools directly, resolutions prohibiting dealing with the school board, dismissing the school board attorney and superintendent of Orleans parish schools, and the resolution declaring a holiday for November 14 to be enforced by sergeants-at-arms. Over 700 State and city officials enjoined from interfering with Orleans parish schools. United States ordered to enter the suit as *amicus curiae.*

December 1, 1960: Legislative resolution reaffirms the principle of Interposition.

December 2, 1960: Federal court denies motion to remand suits to the State court.

December 2, 1960: School board files petition for order to show cause against banks for failure to honor checks drawn on school board funds.

December 2, 1960: State court orders school officials to submit names of children in integrated schools to minority board member.

December 3, 1960: Act 2 of 2d Extraordinary Session passed creating new school board for Orleans parish and giving Governor power to appoint the members of the board.

December 3, 1960: State District Court enters temporary restraining order against Governor forbidding the appointment of members of the board, finding the law unconstitutional, under State constitution.

December 5, 1960: On petition of the United States as *amicus curiae* in the *Bush* case, temporary restraining order forbidding enforcement of Act 2 of 2d Extraordinary Session is issued.

December 5, 1960: Federal District court rules no jurisdiction in petition to order banks to show cause.

December 6, 1960: Amended cross-claim seeking order to show cause against the banks filed by school board.

December 9, 1960: Bush complainants file petition for injunction against Act 2 of 2d Extraordinary Session.

December 12, 1960: U.S. Supreme Court denies stay of desegregation order and affirms invalidity of Interposition.

December 15, 1960: Louisiana State Supreme Court finds Act 2 of 2d Extraordinary Session constitutional. *Singelmann* v. *Davis.*

December 15, 1960: Legislature creates new school board, naming the members (H.B. 9). Vetoed December 22.

December 16, 1960: At hearing in Federal court on petition of school board against banks and against city for withholding *ad valorem* tax collections and on petition by United States of invalidity of Act 2 of 2d Extraordinary Session, Attorney General hands school board attorney notice of dismissal pursuant to new resolution. Court allows school board attorney to argue his case.

December 20, 1960: United States petitions for contempt order against three State officials for refusing to pay teachers in integrated schools while paying all others. Also petition filed for injunction against Secretary of State for refusal to promulgate election returns in Orleans Parish school board election held November 8, 1960.

December 21, 1960: Decision of three-judge court: Enjoining Governor and others from enforcing Act 2 creating new school board; enjoining banks from refusal to honor school board checks drawn against the board's funds; enjoining the city of New Orleans from refusing to deliver to the school board amounts due daily from *ad valorem* tax collections; enjoining enforcement of legislative resolutions addressing school board members out of office and other resolutions related to funds and credit of the board; temporarily restraining the dismissal of the school board attorney; setting a date for contempt hearing against three State officials.

January 12, 1961: Act 5 of 3d Extraordinary Session creates new school board with members named by the legislature.

January 13, 1961: Temporary restraining order forbidding enforcement of Act 5 and also new resolution dismissing school superintendent, all on application of United States as *amicus curiae.* Contempt matter continued.

February 10, 1961: Hearing on Act 5 and resolutions of dismissal of school board attorney and school superintendent.

February 16, 1961: Petition for contempt order amended to include new actions by State Superintendent of Board of Education. Hearing set for March 3.

February 20, 1961: State Court of Appeals affirms lower court that names of children in integrated school must be submitted to minority school board member.

March 3, 1961: Contempt proceedings dismissed against two of State officials. Contempt against superintendent of State Board of Education continued on defendant's assurances that he will comply with Federal court order in not "interfering" with operation of Orleans Parish schools.

March 3, 1961: Decision of three-judge court invalidating Act 4 of 3d Extraordinary Session (creating new school board); Act 5 of 2d Extraordinary Session (dismissal of school board attorney); and S.C.R. No. 7 (dismisal of Orleans school superintendent). An injunction against the Secretary of State for refusal to certify election of Orleans school board member denied since under State law the incumbent continues in office until such certification (the member elected was an incumbent). Upheld the authority of United States as *amicus curiae* to attack the legislative action.

April 29, 1960: Summary judgment in other Louisiana desegregation cases: *Hall* v. *St. Helena Parish School Board; Davis* v. *East Baton Rouge School Board; Allen* v. *State Board of Education* (Shreveport trade school); *Angell* v. *State Board of Education* (5 other trade schools).

May 10, 1960: Injunction entered; no date set for compliance.

February 9, 1961: Court of Appeals affirmed. — F. 2d — (5th Cir. 1961).

Appendix 2. Legislative Summary

1954:

Act 555. Statute requiring segregated schools and cutting off funds and accreditation of integrated schools.

Act 556. Statute providing for individual pupil assignments and administrative remedies.

Act 752. Amendment to Article XII, Section One of State Constitution proposed to require segregated schools as exercise of police power (Amendment adopted).

1956:

Act 28. Compulsory attendance suspended in integrated schools.

Act 319. Classification of schools of Orleans parish, including cut-off of funds and supplies, and provision that white teachers teach only white students and Negro teachers, Negro students.

1958:

Act 256. Authorizing Governor to close integrated school or any in parish affected thereby.

Act 257. Educational cooperatives authorized.

Act 258. Tuition grant law.

Act 259. New pupil assignment act with standards for transfer or assignment.

Constitutional amendment—adopted to amend Article XII, Sec. 1 to relax requirement that State provide public schools.

1960 regular session:

Act 495. Authorizing Governor to close all schools in State if any one is ordered to integrate. Provides for protection of promotion credits, teachers' salaries for six months, and sale of school property.

Act 496. Reenactment of classification law to cover every parish, with additional provision of Governor's "take over" of schools where parish is ordered to integrate by specific plan of the judge.

Act 333. Cut-off of funds and supplies to integrated schools.

Act 542. Authorizes Governor to close schools threatened with violence or disorder.

1960 First Extraordinary Session:

Act 2. Interposition Act declaring *Brown* case and Louisiana orders pursuant thereto null and void. Forbids any Federal officials from enforcing decrees or serving process in cases based on the *Brown* principle and provides criminal penalties for violation of the Act.

Acts 3–9. Repeal previous laws.

Act 10. Closing law similar to Act 542 of 1960.

Act 11. Closing law similar to Act 256 of 1958.

Act 12. Closing law similar to Act 495 of 1960.

Act 13. Fund and supply cut-off similar to Act 333 of 1960.

Act 14. The substantive law that, in effect, requires segregated schools. Provides that all schools shall be operated in accordance with the Constitution. Prohibits accrediting schools not so operated and State colleges from recognizing graduation certificates of such schools.

Act 15. Counsel for Sovereignty Commission.

Act 16. State police to have same jurisdiction as local sheriffs and local police.

Act 17. Withdraws, reclaims and suspends all powers of Orleans school board except certain financial powers. Reserves to legislature all other powers. All employees become those of the legislature.

Act 18. Where school board "ceases legally to exist," creates a Board of Trustees for financial matters.

Act 19. Repeals act that school superintendent act as treasurer of school board.

Act 20. Authorizes State Board of Education to accredit all schools according to uniform standards except those operating in violation of the Constitution and laws of the State.

Act 21. Prohibits school board members from exercising functions of office when any school ordered to operate in violation of State law. Violation is malfeasance in office and ground for removal.

Act 22. Provides for closing of any school operating in violation of State law, and for lease or sale of school property.

Act 23. Revocation of teaching certificate, denial of salary and revocation of certificate and discharge of principal of schools operating contrary to law.

Act 24. Denial of promotion and graduation credits to pupils in class disturbed by order contrary to State law.

Act 25. Repeal of statutes relative to election of Orleans school board.

Act 26. Prohibits transfer of pupils after 21st day of session.

Act 27. Proposed deletion of compulsory attendance from Louisiana Constitution; provides for duties of visiting teachers for public, parochial, and private schools.

Acts 28 and 29. Relating to trade schools and closing of trade schools.

Legislative resolutions:

H.C.R. 10. Provides for legislative take-over of Orleans schools and for the appointment of 8-man committee to operate such schools.

H.C.R. 17. Legislature as committee of the whole takes over Orleans schools.

H.C.R. 18. Dismissal of school superintendent for Orleans parish and school board attorney.

H.C.R. 19. Declares November 14, 1960, a school holiday to be enforced by sergeants-at-arms.

H.C.R. 23. Addresses four of the five members of Orleans parish school board out of office.

1960 Second extraordinary session:

Act 2. Creates new school board, members to be appointed by Governor.

Act 3. New grant-in-aid for education law.

Act 5. Dismisses school board attorney by repealing law that Orleans board may select own attorney. Requires Orleans (like all other parishes), to be represented by Attorney General.

H.B. No. 9. Vetoed. Provided new school board with members named by legislature.

H.C.R. 26. Reaffirms interposition.

H.C.R. 28. Notifies banks not to honor checks of Orleans school board.

1960 Third extraordinary session:

Act 4. New school board with full powers, members appointed by legislature.

S.C.R. 7. Removal from office of Orleans school superintendent.

1961 First extraordinary session:

(Sales tax increase for grants-in-aid failed.)

1961 Second extraordinary session:

Act 2. Permits closing of schools by local school board after voters approve closure in election. Provides for sale of school property.

Act 3. A criminal statute forbidding bribing or offering to bribe parent or guardian of any school child to permit child to attend school in violation of State law and providing that the fines imposed be given to the informer.

Act 4. Authorizes educational cooperative to make contracts with teachers for at least 5-year terms and not more than 10-year terms.

Act 5. Defines as a crime any intimidation or interference in operation of public schools and provides that fines go to informers. Immunity given to informers and mandatory jail sentence set.

Act 7. Increases membership of East Baton Rouge parish school board from 7 to 11 members and provides that Governor shall appoint the new members.

Act 10. Provides for transfer of $2,500,000 from sales tax proceeds in public welfare fund to education expense grant fund. Takes effect July 1961.

Act 11. Provides for placing $250,000 monthly from sales tax collections in education expense grant fund. Takes effect July 1961.

N.B. Omitted are the various resolutions of denunciation, exhortation, and recrimination that did not implement the legislation.

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